

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM
3.3
(ID # 10103)

MEETING DATE:
Tuesday, June 11, 2019

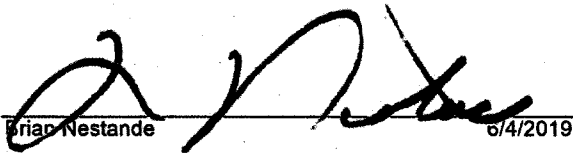
FROM : EXECUTIVE OFFICE:

SUBJECT: EXECUTIVE OFFICE: Approval to Oppose Unless Amended Senate Bill 144
Mitchell Criminal fees, All Districts. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Direct the Executive Office to send a letter of opposition to the following item that is not covered in the 2019 Legislative Platform.

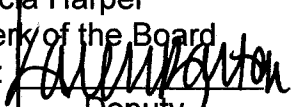
ACTION: Policy


Brian Nestande 6/4/2019

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: June 11, 2019
xc: E.O.

Kecia Harper
Clerk of the Board
By: 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$0	\$0	\$0	\$0
NET COUNTY COST	\$0	\$0	\$0	\$0
SOURCE OF FUNDS: N/A			Budget Adjustment: No	
			For Fiscal Year: 18/19	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

The purpose of Riverside County's Legislative Coordination Policy Program is to support legislation which benefits the County and its residents, and to oppose/amend legislation which might adversely affect the County. The following specific procedures are instituted to facilitate active participation by Departments, allow the Executive Office to act as a centralized "clearinghouse" for legislative matters, and to ensure that all advocacy efforts are entirely consistent with Board-approved positions.

For the following piece of legislation, a policy position does not exist therefore the Executive Office is directed to bring this item to the full Board. After approval from the Board, The Executive Office will then send a letter of support or opposition with the Chair's Signature and work with the Advocacy Team, the Board of Supervisors, and Department to achieve the desired outcome.

RECOMMENDED BILL:

Bill: SB 144 Mitchell Criminal Fees *as Amended 5/21/19*

Position: Oppose unless amended

Background: Existing law imposes various fees contingent upon a criminal arrest, prosecution, or conviction for the cost of administering the criminal justice system, including administering probation and diversion programs, collecting restitution orders, processing arrests and citations, administering drug testing, and incarcerating inmates.

This bill eliminates numerous fees imposed on criminal offenses and Vehicle Code violations. The following is a preliminary estimated revenue loss to our departments if this bill is enacted into law:

Our FY17/18 revenue from **(YEARLY IMPACT):**

- Pre-Sentence Incarceration Fee - \$550,688.67
- Probation Reimbursement - \$1,697,749.33
- Legal Counsel Fee - \$190,128.98

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

- **TOTAL=\$2,438,566**

Our court ordered fees that are owed: (impact if our receivables were wiped clean and forgiven):

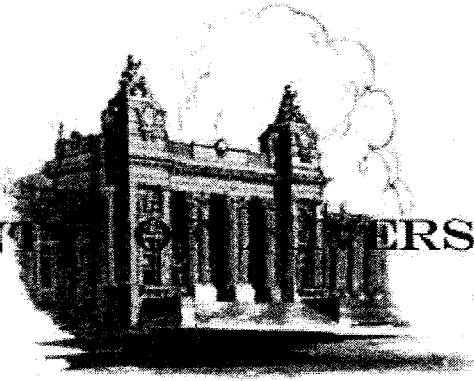
- Pre-Sentence Incarceration Fee - \$9,681,814
- Probation Reimbursement - \$8,028,477
- Legal Counsel Fee - \$4,315,184
- **TOTAL: \$22,025,475**

Our recommendation is to oppose the bill unless amended to require the state to reimburse the Counties for the revenue loss in a timely manner. This is the same recommendation that CSAC & UCC have taken.

Opposition:

- **California State Association of Counties**
- **California State Sheriffs' Association**
- **Chief Probation Officers of California**
- **Coalition of Ignition Interlock Manufacturers**
- **County of Santa Barbara**
- **Mothers Against Drunk Driving**
- **Rural County Representatives of California**
- **Urban Counties of California**

COUNTY OF RIVERSIDE



Board of Supervisors

District 1 <i>Chairman</i>	Kevin Jeffries 951-955-1010
District 2	Karen Spiegel 951-955-1020
District 3	Chuck Washington 951-955-1030
District 4	V. Manuel Perez 951-955-1040
District 5	Jeff Hewitt 951-955-1050

June 11, 2019

The Honorable Holly Mitchell
Member of the State Senate
State Capitol, Room 5050
Sacramento CA 95814

RE: SB 144 (Mitchell) – Elimination of Specified Court Fees and Associated Debt (As amended 5/21/2019)
Set for hearing 6/11/2019 – Assembly Public Safety Committee
Pursuant to Board of Supervisors Action - OPPOSE

Dear Senator Mitchell:

On behalf of the Riverside County Board of Supervisors, I write in respectful opposition of SB 144, your measure that would eliminate a variety of court-related fees and all debt associated with previously levied fees. SB 144 awaits hearing in the Assembly Appropriations Committee.

The County of Riverside has identified a minimum of approximately \$2.5 million in permanent, annual revenue loss associated with the elimination of the fee authority. Additionally, the County has substantial delinquent debt associated with these same fees, which would be forgiven regardless of a person's future ability to pay. The various authorities to charge the fees affected by this measure have been approved through past actions of the Legislature, for the purpose of supporting a specific program or for providing revenue to otherwise support various core criminal justice system functions. We oppose the swift and immediate elimination of the fee authority and the associated revenue as contemplated in SB 144 without assessing the resulting fiscal impact on local agencies and organizations.

Another aspect of the bill that is worth considering is its potential impact on counties' annual fine and forfeiture maintenance of effort (MOE) obligations, which are tied to historic trial court funding reform legislation approved more than two decades ago (AB 227, 1997). Counties use fine, fee, and forfeiture revenue to meet these MOE obligations. To the extent that our county's annual MOE obligations remain unchanged despite the elimination of authority to collect court-related fees, we will have no choice but to backfill with general purpose revenue.

The Honorable Holly Mitchell
June 11, 2019
Page 2

The swift and sweeping nature of SB 144 combined with its considerable fiscal impacts on counties and courts alike is of great concern. Given the significant stakes associated with eliminating fee authority without an accurate understanding of what it would mean to local court and justice system programs and services supported by this revenue, we must oppose your measure. Should you have any questions about the County's position, please do not hesitate to contact Deputy County Executive Officer, Brian Nestande at (951) 955-1110 or bnestande@rivco.org. Thank you for considering our perspective.

Sincerely,



Kevin Jeffries
CHAIR, BOARD OF SUPERVISORS

cc: The Honorable Reginald Jones-Sawyer, Jr., Chair, Assembly Public Safety Committee
Members and Counsel, Assembly Public Safety Committee
Riverside County Legislative Delegation

AMENDED IN SENATE MAY 21, 2019
AMENDED IN SENATE MARCH 27, 2019

SENATE BILL

No. 144

**Introduced by Senators Mitchell and Hertzberg
(Coauthor: Senator Skinner)**

January 18, 2019

An act to amend Sections 7158, 7159.5, 7159.14, 7161, 9807, 9848, and 9882.14 of the Business and Professions Code, to amend Sections ~~6157, 27706, 27707, 27750, 27752, 27756, 27757, 29550, 29551, 50050, 68085, 68085.1, 68085.5, 68085.7, 68085.8, 71380, 71386, 76000.10, 76223, 77009, 77203, and 77205~~ and 76223 of, to add Section 6111 to, and to repeal Sections 22712, 27753, 29550.1, 29550.2, and 29550.3 of, and to repeal and add Section ~~68635~~ of the Government Code, to amend Section ~~11374.5~~ of, to add Section ~~11470.5~~ to, and to repeal Section ~~11470.2~~ of, the Health and Safety Code, to amend Sections 273a, 273d, 273.1, ~~273.6, 290.06, 295, 597.3, 670, 987, 987.2, 1000.3, 1001.90, 1202.4, 1202.42, 1203, 1203.016, 1203.018, 1203.066, 1203.067, 1203.097, 1203.1, 1203.1a, 1203.1ab, 1203.1d, 1203.1i, 1203.4, 1203.4a, 1203.41, 1203.42, 1203.45, 1203.9, 1205, 1208, 1208.2, 1208.3, 1210.1, 1211, 1462.5, 1463, 1463.007, 1463.010, 1463.011, 1463.012, 1463.14, 1464.8, 2085.5, 2085.6, 2085.7, 3000.07, 4011.1, 4018.6, 4024.2, and 5008.2~~ and 4024.2 of, to add Section 1465.9 to, and to repeal Sections 987.4, 987.5, 987.8, 987.81, 1001.15, 1001.16, 1203.1b, 1203.1bb, 1203.1c, 1203.1e, ~~1203.1h, 1203.1m, 1209, 1210.15, 1214.1, 1214.5, 1463.07, 3010.8, 4011.2, 5007.5, and 6266~~ of, the Penal Code, to amend Sections ~~11208, 13386, 21212, 23573, 23575.3, 40509, 40510.5, 40512, 42003, 42007, 42007.1, 42007.3, 42007.4, 42008.5, 42008.7, and 42008.8~~ and 42008.7 of, to add Section 44237 to, and to repeal Sections ~~40508.5, 40508.6, and 40611, Section 40508.5~~ of, the

Vehicle Code, and to amend Sections 903.45 and 904 of, and to repeal Section 903.3 of, the Welfare and Institutions Code, relating to fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 144, as amended, Mitchell. Criminal fees.

(1) Existing law imposes various fees contingent upon a criminal arrest, prosecution, or conviction for the cost of administering the criminal justice system, including administering probation and diversion programs, collecting restitution orders, processing arrests and citations, administering drug testing, ~~incarcerating inmates, facilitating medical visits, and sealing or expunging criminal records.~~ *and incarcerating inmates.*

This bill would repeal the authority to collect *most of* these fees, among others. The bill would make the unpaid balance of ~~any most~~ court-imposed costs unenforceable and uncollectible and would require any portion of a judgment imposing those costs to be vacated. ~~The bill would also prohibit the imposition of trial court filing fees or costs related to the persons underlying criminal conviction.~~

(2) Existing law allows the board of supervisors of any county to establish the office of the public defender and requires the public defender to defend, without expense to the defendant, any person who is not financially able to employ counsel and who is charged with the commission of a crime. Existing law allows the court to hold a hearing to determine whether a defendant owns an interest in real property or other assets and to impose a lien on the property. Upon conclusion of trial, existing law allows the court to make a determination of a defendant's present ability to pay all or a portion of the cost of the public defender. If the court finds that the defendant has the financial ability to pay, existing law requires the court to order the defendant to pay all or a part of the costs the court believes reasonable and compatible with the defendant's financial ability.

This bill would delete the authority of the court to impose liens on the defendant's property and make a post-trial determination of the defendant's ability to pay and to order the defendant to pay the costs of the public defender. By requiring a county to provide a public defender without charge to a defendant who may have the ability to pay, this bill would impose a state-mandated local program.

~~(3) Existing law, as added by the Substance Abuse and Crime Prevention Act of 2000, adopted by voters as Proposition 36 at the~~

~~November 7, 2000, statewide general election, requires that persons convicted of certain nonviolent drug possession offenses be granted probation and be placed in an appropriate drug treatment program. The act allows the trial judge to require a person convicted of a nonviolent drug possession offense to contribute to the cost of their placement in a drug treatment program. The act allows its amendment by a statute passed by $\frac{2}{3}$ of both houses of the Legislature and requires that all amendments further the act and be consistent with its purposes.~~

~~This bill would amend the act by deleting the authority of the court to require a person convicted of a nonviolent drug possession offense to contribute to the cost of their placement in a drug treatment program.~~

~~(4)~~

~~(3) Existing law allows the court to impose a civil assessment of up to \$300 against a defendant who fails, after notice and without good cause, to appear in court or who fails to pay all or any portion of a fine ordered by the court.~~

~~This bill would repeal the authority of the court to impose that assessment.~~

~~(5) Existing law, the Sexual Predator Punishment and Control Act: Jessica's Law, adopted by voters as Proposition 83 at the November 7, 2006, statewide general election, requires every person paroled after being committed to prison for a registerable sex offense to be monitored by a global positioning system for the term of their parole. The act requires the inmate to pay for the costs associated with the monitoring by a global positioning system unless the Department of Corrections and Rehabilitation finds the inmate has an inability to pay. The act allows its amendment by a statute passed by $\frac{2}{3}$ of both houses of the Legislature.~~

~~This bill would amend the act by deleting the requirement that a parolee pay for the costs associated with being monitored by a global positioning system.~~

~~(6)~~

~~(4) Existing law requires a person who has been convicted of driving a motor vehicle under the influence of an alcoholic beverage or drug to install an ignition interlock device on the vehicle that person operates. Existing law requires a manufacturer certified to provide ignition interlock devices to adopt a fee schedule for the payment of costs of the device in an amount commensurate with a defendant's ability to pay. Existing law requires that a person subject to this requirement pay a percentage of the cost of the ignition interlock device program, up to~~

the full cost, based on the person's ~~income and to pay a fee to the Department of Motor Vehicles to cover the costs of administering the program.~~ *income.*

~~This bill would delete the requirement that the person pay the costs of the ignition interlock device program and the requirement that the person pay the fee to the department.~~

This bill would prohibit the person from being responsible for the costs of the certified ignition interlock device or servicing by the installer of the device.

(5) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Approximately 80 percent of Californians in jail are indigent
- 4 and too many enter the criminal justice system due to the
- 5 criminalization of their poverty.
- 6 (b) Incarcerated people are disproportionately Black or Latinx
- 7 because these populations are overpoliced, have higher rates of
- 8 convictions following an arrest, and have the highest rates of
- 9 poverty. In fact, while Black Californians represent only 7 percent
- 10 of the state population, they make up 23 percent of the Californians
- 11 on probation and are also grossly overrepresented in felony and
- 12 misdemeanor arrests.
- 13 (c) People exiting jail or prison face higher rates of
- 14 unemployment and homelessness, due in part to racial
- 15 discrimination and the impact of their criminal conviction.
- 16 (d) The inability to meet basic needs has been found to
- 17 contribute to higher rates of recidivism and is a barrier to family
- 18 reunification.

1 (e) According to a report by the Ella Baker Center for Human
2 Rights, the average debt incurred for court-ordered fines and fees
3 was roughly equal to the annual income for respondents in the
4 survey.

5 (f) A national survey of formerly incarcerated people found that
6 families often bear the burden of fees, and that 83 percent of the
7 people responsible for paying these costs are women.

8 (g) Because these fees are often assigned to people who simply
9 cannot afford to pay them, they make poor people, their families,
10 and their communities poorer.

11 (h) Criminal justice fees have no formal punitive or public safety
12 function. Instead, they undermine public safety because the debt
13 they cause can limit access to employment, housing, education,
14 and public benefits, which creates additional barriers to successful
15 reentry. Research also shows that criminal justice fees can push
16 individuals into underground economies and can result in
17 individuals turning to criminal activity or predatory lending to pay
18 their debts.

19 (i) Research shows that criminal justice fees are difficult to
20 collect and typically cost counties almost as much or more than
21 they end up collecting in revenue.

22 (j) The use of criminal justice fees has been argued by some to
23 be unconstitutional. On February 20, 2019, the United States
24 Supreme Court ruled unanimously in *Timbs v. Indiana* that the
25 Eighth Amendment's Excessive Fines Clause is an incorporated
26 protection applicable to the states and "protects people against
27 abuses of government's punitive or criminal-law-enforcement
28 authority." Justice Ginsburg wrote in her decision that the
29 constitutional protection against excessive fines is "~~fundamental~~
30 "*fundamental* to our scheme of ordered liberty with deep roots in
31 our history and tradition."

32 SEC. 2. It is the intent of the Legislature to eliminate the range
33 of administrative fees that agencies and courts are authorized to
34 impose to fund elements of the criminal legal system and to
35 eliminate all outstanding debt incurred as a result of the imposition
36 of administrative fees.

37 SEC. 3. Section 7158 of the Business and Professions Code is
38 amended to read:

39 7158. (a) Any person who shall accept or receive a completion
40 certificate or other evidence that performance of a contract for a

1 work of improvement, ~~including~~ *including*, but not limited to,
2 a home improvement, is complete or satisfactorily concluded, with
3 knowledge that the document is false and that the performance is
4 not substantially completed, and who shall utter, offer, or use the
5 document in connection with the making or accepting of any
6 assignment or negotiation of the right to receive any payment from
7 the owner, under or in connection with a contract, or for the
8 purpose of obtaining or granting any credit or loan on the security
9 of the right to receive any payment shall be guilty of a
10 misdemeanor and subject to a fine of not less than five hundred
11 dollars (\$500) nor more than five thousand dollars (\$5,000), or to
12 imprisonment in the county jail for a term of not less than one
13 month nor more than one year, or both.

14 (b) Any person who violates this section as part of a plan or
15 scheme to defraud an owner of a residential or nonresidential
16 structure, including a mobilehome or manufactured home, in
17 connection with the offer or performance of repairs to the structure
18 for damage caused by a natural disaster, shall be ordered by the
19 court to make full restitution to the victim based on the person's
20 ability to pay, as defined in paragraph (2) of subdivision (b) of
21 Section 27755 of the Government Code. In addition to full
22 restitution, and imprisonment authorized by subdivision (a), the
23 court may impose a fine of not less than five hundred dollars (\$500)
24 nor more than twenty-five thousand dollars (\$25,000), based upon
25 the defendant's ability to pay. This subdivision applies to natural
26 disasters for which a state of emergency is proclaimed by the
27 Governor pursuant to Section 8625 of the Government Code or
28 for which an emergency or major disaster is declared by the
29 President of the United States.

30 SEC. 4. Section 7159.5 of the Business and Professions Code
31 is amended to read:

32 7159.5. This section applies to all home improvement contracts,
33 as defined in Section 7151.2, between an owner or tenant and a
34 contractor, whether a general contractor or a specialty contractor,
35 that is licensed or subject to be licensed pursuant to this chapter
36 with regard to the transaction.

37 (a) Failure by the licensee or a person subject to be licensed
38 under this chapter, or by their agent or salesperson, to comply with
39 the following provisions is cause for discipline:

1 (1) The contract shall be in writing and shall include the agreed
2 contract amount in dollars and cents. The contract amount shall
3 include the entire cost of the contract, including profit, labor, and
4 materials, but excluding finance charges.

5 (2) If there is a separate finance charge between the contractor
6 and the person contracting for home improvement, the finance
7 charge shall be set out separately from the contract amount.

8 (3) If a downpayment will be charged, the downpayment shall
9 not exceed one thousand dollars (\$1,000) or 10 percent of the
10 contract amount, whichever amount is less.

11 (4) If, in addition to a downpayment, the contract provides for
12 payments to be made prior to completion of the work, the contract
13 shall include a schedule of payments in dollars and cents
14 specifically referencing the amount of work or services to be
15 performed and any materials and equipment to be supplied.

16 (5) Except for a downpayment, the contractor shall neither
17 request nor accept payment that exceeds the value of the work
18 performed or material delivered.

19 (6) Upon any payment by the person contracting for home
20 improvement, and prior to any further payment being made, the
21 contractor shall, if requested, obtain and furnish to the person a
22 full and unconditional release from any potential lien claimant
23 claim or mechanics lien authorized pursuant to Sections 8400 and
24 8404 of the Civil Code for any portion of the work for which
25 payment has been made. The person contracting for home
26 improvement may withhold all further payments until these releases
27 are furnished.

28 (7) If the contract provides for a payment of a salesperson's
29 commission out of the contract price, that payment shall be made
30 on a pro rata basis in proportion to the schedule of payments made
31 to the contractor by the disbursing party in accordance with
32 paragraph (4).

33 (8) A contractor furnishing a performance and payment bond,
34 lien and completion bond, or a bond equivalent or joint control
35 approved by the registrar covering full performance and payment
36 is exempt from paragraphs (3), (4), and (5), and need not include,
37 as part of the contract, the statement regarding the downpayment
38 specified in subparagraph (C) of paragraph (8) of subdivision (d)
39 of Section 7159, the details and statement regarding progress
40 payments specified in paragraph (9) of subdivision (d) of Section

1 7159, or the Mechanics Lien Warning specified in paragraph (4)
2 of subdivision (e) of Section 7159. A contractor furnishing these
3 bonds, bond equivalents, or a joint control approved by the registrar
4 may accept payment prior to completion. If the contract provides
5 for a contractor to furnish joint control, the contractor shall not
6 have any financial or other interest in the joint control.
7 Notwithstanding any other law, a licensee shall be licensed in this
8 state in an active status for not less than two years prior to
9 submitting an Application for Approval of Blanket Performance
10 and Payment Bond as provided in Section 858.2 of Title 16 of the
11 California Code of Regulations as it read on January 1, 2016.

12 (b) A violation of paragraph (1), (3), or (5) of subdivision (a)
13 by a licensee or a person subject to be licensed under this chapter,
14 or by their agent or salesperson, is a misdemeanor punishable by
15 a fine of not less than one hundred dollars (\$100) nor more than
16 five thousand dollars (\$5,000), or by imprisonment in a county
17 jail not exceeding one year, or by both that fine and imprisonment.

18 (1) An indictment or information against a person who is not
19 licensed but who is required to be licensed under this chapter shall
20 be brought, or a criminal complaint filed, for a violation of this
21 section, in accordance with paragraph (4) of subdivision (d) of
22 Section 802 of the Penal Code, within four years from the date of
23 the contract or, if the contract is not reduced to writing, from the
24 date the buyer makes the first payment to the contractor.

25 (2) An indictment or information against a person who is
26 licensed under this chapter shall be brought, or a criminal complaint
27 filed, for a violation of this section, in accordance with paragraph
28 (2) of subdivision (d) of Section 802 of the Penal Code, within
29 two years from the date of the contract or, if the contract is not
30 reduced to writing, from the date the buyer makes the first payment
31 to the contractor.

32 (3) The limitations on actions in this subdivision shall not apply
33 to any administrative action filed against a licensed contractor.

34 (c) Any person who violates this section as part of a plan or
35 scheme to defraud an owner or tenant of a residential or
36 nonresidential structure, including a mobilehome or manufactured
37 home, in connection with the offer or performance of repairs to
38 the structure for damage caused by a natural disaster, shall be
39 ordered by the court to make full restitution to the victim based
40 on the person's ability to pay, as defined in paragraph (2) of

1 subdivision (b) of Section 27755 of the Government Code. In
2 addition to full restitution, and imprisonment authorized by this
3 section, the court may impose a fine of not less than five hundred
4 dollars (\$500) nor more than twenty-five thousand dollars
5 (\$25,000), based upon the defendant's ability to pay. This
6 subdivision applies to natural disasters for which a state of
7 emergency is proclaimed by the Governor pursuant to Section
8 8625 of the Government Code, or for which an emergency or major
9 disaster is declared by the President of the United States.

10 SEC. 5. Section 7159.14 of the Business and Professions Code
11 is amended to read:

12 7159.14. (a) This section applies to a service and repair
13 contract as defined in Section 7159.10. A violation of this section
14 by a licensee or a person subject to be licensed under this chapter,
15 or by their agent or salesperson, is cause for discipline.

16 (1) The contract shall not exceed seven hundred fifty dollars
17 (\$750).

18 (2) The contract shall be in writing and shall state the agreed
19 contract amount, which may be stated as either a fixed contract
20 amount in dollars and cents or, if a time and materials formula is
21 used, as an estimated contract amount in dollars and cents.

22 (3) The contract amount shall include the entire cost of the
23 contract including profit, labor, and materials, but excluding
24 finance charges.

25 (4) The actual contract amount of a time and materials contract
26 may not exceed the estimated contract amount without written
27 authorization from the buyer.

28 (5) The prospective buyer shall have initiated contact with the
29 contractor to request work.

30 (6) The contractor shall not sell the buyer goods or services
31 beyond those reasonably necessary to take care of the particular
32 problem that caused the buyer to contact the contractor.

33 (7) Payment shall not be due before the project is completed.

34 (8) A service and repair contractor shall charge only one service
35 charge. For purposes of this chapter, a service charge includes
36 charges such as a service or trip charge, or an inspection fee.

37 (9) A service and repair contractor charging a service charge
38 shall disclose in all advertisements that there is a service charge
39 and, when the customer initiates the call for service, shall disclose
40 the amount of the service charge.

1 (10) The service and repair contractor shall offer to the customer
2 any parts that were replaced.

3 (11) Upon any payment by the buyer, the contractor shall, if
4 requested, obtain and furnish to the buyer a full and unconditional
5 release from any potential lien claimant claim or mechanics lien
6 authorized pursuant to Sections 8400 and 8404 of the Civil Code
7 for any portion of the work for which payment has been made.

8 (b) A violation of paragraph (1), (2), (3), (4), (5), (6), or (8) of
9 subdivision (a) by a licensee or a person subject to be licensed
10 under this chapter, or by their agent or salesperson, is a
11 misdemeanor punishable by a fine of not less than one hundred
12 dollars (\$100) nor more than five thousand dollars (\$5,000), or by
13 imprisonment in a county jail not exceeding one year, or by both
14 that fine and imprisonment.

15 (1) An indictment or information against a person who is not
16 licensed but who is required to be licensed under this chapter shall
17 be brought, or a criminal complaint filed, for a violation of this
18 section, in accordance with paragraph (4) of subdivision (d) of
19 Section 802 of the Penal Code, within four years from the date of
20 the contract or, if the contract is not reduced to writing, from the
21 date the buyer makes the first payment to the contractor.

22 (2) An indictment or information against a person who is
23 licensed under this chapter shall be brought, or a criminal complaint
24 filed, for a violation of this section, in accordance with paragraph
25 (2) of subdivision (d) of Section 802 of the Penal Code, within
26 two years from the date of the contract or, if the contract is not
27 reduced to writing, from the date the buyer makes the first payment
28 to the contractor.

29 (3) The limitations on actions in this subdivision do not apply
30 to any administrative action filed against a licensed contractor.

31 (c) Any person who violates this section as part of a plan or
32 scheme to defraud an owner or tenant of a residential or
33 nonresidential structure, including a mobilehome or manufactured
34 home, in connection with the offer or performance of repairs to
35 the structure for damage caused by a natural disaster, shall be
36 ordered by the court to make full restitution to the victim based
37 on the person's ability to pay, as defined in paragraph (2) of
38 subdivision (b) of Section 27755 of the Government Code. In
39 addition to full restitution, and imprisonment authorized by this
40 section, the court may impose a fine of not less than five hundred

1 dollars (\$500) nor more than twenty-five thousand dollars
2 (\$25,000), based upon the defendant's ability to pay. This
3 subdivision applies to natural disasters for which a state of
4 emergency is proclaimed by the Governor pursuant to Section
5 8625 of the Government Code, or for which an emergency or major
6 disaster is declared by the President of the United States.

7 SEC. 6. Section 7161 of the Business and Professions Code is
8 amended to read:

9 7161. It is a misdemeanor for any person to engage in any of
10 the following acts, the commission of which is cause for
11 disciplinary action against any licensee or applicant:

12 (a) Using false, misleading, or deceptive advertising as an
13 inducement to enter into any contract for a work of improvement,
14 including, but not limited to, any home improvement contract,
15 whereby any member of the public may be misled or injured.

16 (b) Making any substantial misrepresentation in the procurement
17 of a contract for a home improvement or other work of
18 improvement or making any false promise of a character likely to
19 influence, persuade, or induce any person to enter into the contract.

20 (c) Any fraud in the execution of, or in the material alteration
21 of, any contract, trust deed, mortgage, promissory note, or other
22 document incident to a home improvement transaction or other
23 transaction involving a work of improvement.

24 (d) Preparing or accepting any trust deed, mortgage, promissory
25 note, or other evidence of indebtedness upon the obligations of a
26 home improvement transaction or other transaction for a work of
27 improvement with knowledge that it specifies a greater monetary
28 obligation than the consideration for the improvement work, which
29 consideration may be a time sale price.

30 (e) Directly or indirectly publishing any advertisement relating
31 to home improvements or other works of improvement that
32 contains an assertion, representation, or statement of fact that is
33 false, deceptive, or misleading, or by any means advertising or
34 purporting to offer to the general public this improvement work
35 with the intent not to accept contracts for the particular work or at
36 the price that is advertised or offered to the public, except that any
37 advertisement that is subject to and complies with the existing
38 rules, regulations, or guides of the Federal Trade Commission shall
39 not be deemed false, deceptive, or misleading.

1 (f) Any person who violates subdivision (b), (c), (d), or (e) as
2 part of a plan or scheme to defraud an owner of a residential or
3 nonresidential structure, including a mobilehome or manufactured
4 home, in connection with the offer or performance of repairs to
5 the structure for damage caused by a natural disaster, shall be
6 ordered by the court to make full restitution to the victim based
7 on the person's ability to pay, as defined in paragraph (2) of
8 subdivision (b) of Section 27755 of the Government Code. In
9 addition to full restitution and imprisonment as authorized by this
10 section, the court may impose a fine of not less than five hundred
11 dollars (\$500) nor more than twenty-five thousand dollars
12 (\$25,000), based upon the defendant's ability to pay. This
13 subdivision applies to natural disasters for which a state of
14 emergency is proclaimed by the Governor pursuant to Section
15 8625 of the Government Code or for which an emergency or major
16 disaster is declared by the President of the United States.

17 SEC. 7. Section 9807 of the Business and Professions Code is
18 amended to read:

19 9807. (a) Notwithstanding any other law, a service dealer
20 licensed under this chapter and authorized to engage in the
21 electronic repair industry, as defined in subdivision (p) of Section
22 9801, may install, calibrate, service, maintain, and monitor certified
23 ignition interlock devices.

24 (b) The bureau shall adopt regulations to implement this section
25 consistent with the standards adopted by the Bureau of Automotive
26 Repair and the Office of Traffic Safety under Section 9882.14.

27 SEC. 8. Section 9848 of the Business and Professions Code is
28 amended to read:

29 9848. All proceedings to deny registration or suspend, revoke,
30 or place on probation a registration shall be conducted pursuant
31 to Chapter 5 (commencing with Section 11500) of Part 1 of
32 Division 3 of Title 2 of the Government Code.

33 SEC. 9. Section 9882.14 of the Business and Professions Code
34 is amended to read:

35 9882.14. (a) The bureau shall cooperate with the Office of
36 Traffic Safety and adopt standards for the installation, maintenance,
37 and servicing of certified ignition interlock devices by automotive
38 repair dealers.

1 (b) The manufacturers of certified ignition interlock devices
2 shall comply with standards established by the bureau for the
3 installation of those ignition interlock devices.

4 (c) The bureau may charge manufacturers of certified interlock
5 ignition devices a fee to recover the reasonable cost of monitoring
6 installation standards.

7 SEC. 10. Section 6111 is added to the Government Code,
8 immediately following 6110, to read:

9 6111. On and after January 1, 2020, the unpaid balance of any
10 court-imposed costs pursuant to Section ~~6157~~, 27712, subdivision
11 (c) or (f) of Section 29550, *and* Sections 29550.1, ~~29550.2~~ 29550.2,
12 and 29550.3, ~~subdivision (b) of Section 68635, and Section 71386;~~
13 as those sections read on December 31, 2019, is unenforceable
14 and uncollectible and any portion of a judgment imposing those
15 costs shall be vacated. ~~The unpaid balance of any court imposed~~
16 ~~cost relating to a criminal proceeding pursuant to Section 6157 is~~
17 ~~also unenforceable and uncollectible and any portion of a judgment~~
18 ~~imposing those costs shall be vacated.~~

19 SEC. 11. ~~Section 6157 of the Government Code is amended~~
20 ~~to read:~~

21 ~~6157. (a) The state, and each city, whether general law or~~
22 ~~chartered, county, and district, each subdivision, department, board,~~
23 ~~commission, body, or agency of the foregoing, shall accept personal~~
24 ~~checks, in addition to any other authorized form of payment, drawn~~
25 ~~in its favor or in favor of a designated official thereof, in payment~~
26 ~~for any license, permit, or fee, or in payment of any obligation~~
27 ~~owing to the public agency or trust deposit, if the person issuing~~
28 ~~the check furnishes to the person authorized to receive payment~~
29 ~~satisfactory proof of residence in this state and if the personal~~
30 ~~check is drawn on a banking institution located in this state.~~

31 ~~(b) If any personal check, corporate check, cashier's check,~~
32 ~~money order, or other draft method offered in payment pursuant~~
33 ~~to this section is returned without payment, for any reason, a~~
34 ~~reasonable charge for the returned check, order, or draft, not to~~
35 ~~exceed the actual costs incurred by the public agency, may be~~
36 ~~imposed to recover the public agency's processing and collection~~
37 ~~costs, except that a charge may not be imposed in regard to~~
38 ~~payment made arising from a criminal proceeding. This charge~~
39 ~~may be added to, and become part of, any underlying obligation~~
40 ~~other than an obligation which constitutes a lien on real property;~~

1 and a different method of payment for that payment and future
2 payments by this person may be prescribed.

3 ~~(c) The acceptance of a personal check, corporate check,~~
4 ~~cashier's check, money order, or other draft method pursuant to~~
5 ~~this section constitutes payment of the obligation owed to the payee~~
6 ~~public agency to the extent of the amount of the check as of the~~
7 ~~date of acceptance when, but not before, the check is duly paid.~~

8 ~~(d) The provisions in subdivision (b) prohibiting a returned~~
9 ~~check charge being added to, and becoming a part of, an obligation~~
10 ~~which constitutes a lien on real property do not apply to obligations~~
11 ~~under the Veterans' Farm and Home Purchase Act of 1974 (Article~~
12 ~~3.1 (commencing with Section 987.50) of Chapter 6 of Division~~
13 ~~4 of the Military and Veterans Code).~~

14 SEC. 12.

15 SEC. 11. Section 27706 of the Government Code is amended
16 to read:

17 27706. The public defender shall perform the following duties:

18 (a) Upon request of the defendant or upon order of the court,
19 the public defender shall defend, without expense to the defendant,
20 any person who is not financially able to employ counsel and who
21 is charged with the commission of any contempt or offense triable
22 in the superior courts at all stages of the proceedings, including
23 the preliminary examination. The public defender shall, upon
24 request, give counsel and advice to such person about any charge
25 against the person upon which the public defender is conducting
26 the defense, and shall prosecute all appeals to a higher court or
27 courts of any person who has been convicted, where, in the opinion
28 of the public defender, the appeal will or might reasonably be
29 expected to result in the reversal or modification of the judgment
30 of conviction.

31 (b) Upon request, the public defender shall prosecute actions
32 for the collection of wages and other demands of any person who
33 is not financially able to employ counsel, where the sum involved
34 does not exceed one hundred dollars (\$100), and where, in the
35 judgment of the public defender, the claim urged is valid and
36 enforceable in the courts.

37 (c) Upon request, the public defender shall defend any person
38 who is not financially able to employ counsel in any civil litigation
39 in which, in the judgment of the public defender, the person is
40 being persecuted or unjustly harassed.

1 (d) Upon request, or upon order of the court, the public defender
2 shall represent any person who is not financially able to employ
3 counsel in proceedings under Division 4 (commencing with Section
4 1400) of the Probate Code and Part 1 (commencing with Section
5 5000) of Division 5 of the Welfare and Institutions Code.

6 (e) Upon order of the court, the public defender shall represent
7 any person who is entitled to be represented by counsel but is not
8 financially able to employ counsel in proceedings under Chapter
9 2 (commencing with Section 500) of Part 1 of Division 2 of the
10 Welfare and Institutions Code.

11 (f) Upon order of the court the public defender shall represent
12 any person who is required to have counsel pursuant to Section
13 686.1 of the Penal Code.

14 (g) Upon the order of the court or upon the request of the person
15 involved, the public defender may represent any person who is not
16 financially able to employ counsel in a proceeding of any nature
17 relating to the nature or conditions of detention, of other restrictions
18 prior to adjudication, of treatment, or of punishment resulting from
19 criminal or juvenile proceedings.

20 ~~SEC. 13.~~

21 *SEC. 12.* Section 27707 of the Government Code is amended
22 to read:

23 27707. The court in which the proceeding is pending may make
24 the final determination in each case as to whether a defendant or
25 person described in Section 27706 is financially able to employ
26 counsel and qualifies for the services of the public defender. The
27 public defender shall, however, render legal services as provided
28 in subdivisions (a), ~~(b)~~ (b), and (c) of Section 27706 for any person
29 the public defender determines is not financially able to employ
30 counsel until such time as a contrary determination is made by the
31 court. If a contrary determination is made, the public defender
32 thereafter may not render services for such person except in a
33 proceeding to review the determination of that issue or in an
34 unrelated proceeding. In order to assist the court or public defender
35 in making the determination, the court or the public defender may
36 require a defendant or person requesting services of the public
37 defender to file a financial statement under penalty of perjury. The
38 financial statement shall be confidential and privileged and shall
39 not be admissible as evidence in any criminal proceeding except
40 the prosecution of an alleged offense of perjury based upon false

1 material contained in the financial statement. The financial
2 statement shall be made available to the prosecution only for
3 purposes of investigation of an alleged offense of perjury based
4 upon false material contained in the financial statement at the
5 conclusion of the proceedings for which such financial statement
6 was required to be submitted.

7 ~~SEC. 14.~~

8 ~~SEC. 13.~~ Section 27712 of the Government Code is repealed.

9 ~~SEC. 15.~~

10 ~~SEC. 14.~~ Section 27750 of the Government Code is amended
11 to read:

12 27750. The board of supervisors of any county may designate
13 a county officer to make financial evaluations of defendants and
14 other persons liable for reimbursable costs under the law. A county
15 officer so designated shall be known as the county financial
16 evaluation officer, whose duties shall be to determine, according
17 to the standards set by the board of supervisors and at the direction
18 of the court, the financial ability of parties who have incurred, or
19 will incur, court-related or court-ordered costs, which costs by law
20 must be waived or the services provided free of charge if the party
21 is indigent.

22 ~~SEC. 16.~~

23 ~~SEC. 15.~~ Section 27752 of the Government Code is amended
24 to read:

25 27752. A county financial evaluation officer is authorized to
26 make financial evaluations and collect moneys pursuant to Section
27 3112 of the Family Code, Sections 1203.1 and 1205 of the Penal
28 Code, and Sections 353, 376, 700, 727, 751, 903, 903.1, 903.2,
29 and 903.45 of the Welfare and Institutions Code.

30 ~~SEC. 17.~~

31 ~~SEC. 16.~~ Section 27753 of the Government Code is repealed.

32 ~~SEC. 18.~~

33 ~~SEC. 17.~~ Section 27756 of the Government Code is amended
34 to read:

35 27756. Notwithstanding Section 903.4 of the Welfare and
36 Institutions Code, in any county where the board of supervisors
37 has designated a county financial evaluation officer, the county
38 financial evaluation officer shall make financial evaluations of
39 parental liability for reimbursements and other court-ordered costs
40 pursuant to Sections 903, 903.1, 903.2, and 903.45 of the Welfare

1 and Institutions Code, as directed by the board of supervisors, or
2 as established by order of the juvenile court, and may enforce the
3 court order as any other civil judgment, including any balance
4 remaining unpaid after jurisdiction of the minor has terminated.

5 ~~SEC. 19.~~

6 *SEC. 18.* Section 27757 of the Government Code is amended
7 to read:

8 27757. (a) Except as otherwise ordered by the juvenile court,
9 a county financial evaluation officer, upon satisfactory proof, may
10 reduce, cancel, or remit the costs and charges listed in Sections
11 903, 903.1, 903.2, and 903.45 of the Welfare and Institutions Code,
12 or established by order of the juvenile court.

13 (b) The county financial evaluation officer may, following entry
14 of an order by the juvenile court that a minor person be represented
15 by the public defender or private attorney or be placed or detained
16 in, or committed to, a county institution or other place, make an
17 investigation to determine the moneys, the property, or interest in
18 property, if any, the minor person has, and whether the minor has
19 a duly appointed and acting guardian to protect the minor's
20 property interests. The county financial evaluation officer may
21 also make an investigation to determine whether the minor person
22 has any relative or relatives responsible under the provisions of
23 this chapter, and may ascertain the financial condition of that
24 relative or those relatives to determine whether they are financially
25 able to pay those charges.

26 (c) In any case where a county has expended money for the
27 support and maintenance of any dependent child or other minor
28 person, or has furnished support and maintenance, and the court
29 has not made an order of reimbursement to the county, in whole
30 or in part, as provided by law, or the court has made and
31 subsequently revoked that order, if the dependent child or other
32 minor person or parent, guardian, or other person liable for the
33 support of the dependent child or other minor person acquires
34 property, money, or estate subsequent to the date the juvenile court
35 assumed jurisdiction over the dependent child or minor person, or
36 subsequent to the date the order of reimbursement was revoked,
37 the county shall have a claim for that reimbursement against the
38 dependent child or other minor person or parent, ~~guardian~~
39 *guardian*, or other person responsible for the support and
40 maintenance. The claim shall be enforced by the county financial

1 evaluation officer or the local child support agency, as the case
2 may be.

3 (d) (1) This section does not apply to a minor who is adjudged
4 a ward of the juvenile court, who is placed on probation pursuant
5 to Section 725 of the Welfare and Institutions Code, who is the
6 subject of a petition that has been filed to adjudge the minor a ward
7 of the juvenile court, or who is the subject of a program of
8 supervision undertaken pursuant to Section 654 of the Welfare
9 and Institutions Code.

10 (2) Notwithstanding paragraph (1), this section applies to a
11 minor who is designated as a dual status child pursuant to Section
12 241.1 of the Welfare and Institutions Code, for purposes of the
13 dependency jurisdiction only and not for purposes of the
14 delinquency jurisdiction.

15 ~~SEC. 20.~~

16 *SEC. 19.* Section 29550 of the Government Code is amended
17 to read:

18 29550. (a) (1) Subject to subdivision (d) of Section 29551, a
19 county may impose a fee upon a city, special district, school
20 district, community college district, college, or university for
21 reimbursement of county expenses incurred with respect to the
22 booking or other processing of persons arrested by an employee
23 of that city, special district, school district, community college
24 district, college, or university, where the arrested persons are
25 brought to the county jail for booking or detention. The fee imposed
26 by a county pursuant to this section shall not exceed the actual
27 administrative costs, including applicable overhead costs as
28 permitted by federal Circular A-87 standards, as defined in
29 subdivision (c), incurred in booking or otherwise processing
30 arrested persons. For the 2005-06 fiscal year and each fiscal year
31 thereafter, the fee imposed by a county pursuant to this subdivision
32 shall not exceed one-half of the actual administrative costs,
33 including applicable overhead costs as permitted by federal Circular
34 A-87 standards, as defined in subdivision (c), incurred in booking
35 or otherwise processing arrested persons. A county may submit
36 an invoice to a city, special district, school district, community
37 college district, college, or university for these expenses incurred
38 by the county on and after July 1, 1990. Counties shall fully
39 disclose the costs allocated as federal Circular A-87 overhead.

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

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

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

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

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

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

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

37 (5) An agency making a mutual aid request shall pay fees in
38 accordance with subdivision (a) that result from arrests made in
39 response to the mutual aid request except that in the event the
40 Governor declares a state of emergency, no agency shall be charged

1 fees for any arrest made during any riot, disturbance, or event that
2 is subject to the declaration.

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

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

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

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

33 (c) As used in this section, "actual administrative costs" include
34 only those costs for functions that are performed in order to receive
35 an arrestee into a county detention facility. Operating expenses of
36 the county jail facility including capital costs and those costs
37 involved in the housing, feeding, and care of inmates shall not be
38 included in calculating "actual administrative costs." "Actual
39 administrative costs" may include the cost of notifying any local
40 agency, special district, school district, community college district,

1 ~~college~~ college, or university of any change in the fee charged by
2 a county pursuant to this section. "Actual administrative costs"
3 may include any one or more of the following as related to
4 receiving an arrestee into the county detention facility:

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

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

11 (3) Warrant service, processing, and detainer.

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

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

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

16 (7) The classification of an arrestee.

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

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

21 ~~SEC. 21.~~

22 *SEC. 20.* Section 29550.1 of the Government Code is repealed.

23 ~~SEC. 22.~~

24 *SEC. 21.* Section 29550.2 of the Government Code is repealed.

25 ~~SEC. 23.~~

26 *SEC. 22.* Section 29550.3 of the Government Code is repealed.

27 ~~SEC. 24.~~

28 *SEC. 23.* Section 29551 of the Government Code is amended
29 to read:

30 29551. (a) The board of supervisors or city council of any
31 county, city and county, or city that opts to receive funds pursuant
32 to Section 29552 shall establish a local detention facility revenue
33 account, on behalf of the sheriff or the official responsible for local
34 detention facilities in the county, city and county, or city, into
35 which shall be deposited funds paid by the Controller, pursuant to
36 Section 29552. The funds in the local detention facility revenue
37 account shall be used exclusively for the purpose of operation,
38 renovation, remodeling, or constructing local detention facilities
39 and related equipment.

1 (b) (1) If an appropriation for the purposes specified in Section
2 29552 is made in any fiscal year, a county, city and county, or city,
3 may charge a jail access fee to a local agency that exceeds the
4 agency's three-year average number of nonfelony bookings for
5 crimes listed in paragraph (2) at a rate not to exceed the actual cost
6 of booking an arrested person into the local detention facility, for
7 each booking in excess of the three-year average. A local agency's
8 three-year average number of nonfelony bookings for crimes listed
9 in paragraph (2) shall be recalculated each year. The jail access
10 fee shall be calculated and paid on a monthly basis, and all revenue
11 derived from the jail access fee shall be deposited into the local
12 detention facility revenue account created pursuant to subdivision
13 (a).

14 (2) Bookings for violations of each of the following shall be
15 used to determine a local agency's three-year average:

16 (A) Municipal code violations.

17 (B) Misdemeanor violations, except ~~driving under the influence~~
18 *driving-under-the-influence* offenses and domestic violence
19 misdemeanor offenses, including enforcement of protective orders.

20 (c) Cities that operate Type One facilities within a county shall
21 be eligible to receive funds from the county's local detention
22 facility revenue account. Cities that operate Type One facilities
23 and charged booking fees pursuant to Section 29550.3 during the
24 2006-07 fiscal year shall receive funds in an amount proportional
25 to the number of persons booked into the city's Type One facility
26 for which the city charged fees to the arresting agency.

27 (d) Every year in which at least the sum of thirty-five million
28 dollars (\$35,000,000) is appropriated for the purposes of Section
29 29552, counties, cities and counties, and cities are prohibited from
30 collecting fees pursuant to Section 29550 from other public entities.
31 In any fiscal year in which the appropriation for the purposes of
32 Section 29552 is less than thirty-five million dollars (\$35,000,000),
33 a county, city and county, or a city may collect fees pursuant to
34 Section 29550 up to a rate, adjusted as provided in subdivision
35 (e), in proportion to the amount that the amount appropriated is
36 less than thirty-five million dollars (\$35,000,000).

37 (e) The maximum rate of the fee charged by each local agency
38 pursuant to subdivision (d) shall be the rate charged as of June 30,
39 2006, pursuant to Section 29550, increased for each subsequent

1 fiscal year by the California Consumer Price Index as reported by
2 the Department of Finance plus 1 percent, compounded annually.

3 ~~SEC. 25.~~

4 *SEC. 24.* Section 50050 of the Government Code is amended
5 to read:

6 50050. For purposes of this article, "local agency" includes all
7 districts. Except as otherwise provided by law, money, excluding
8 restitution to victims, that is not the property of a local agency that
9 remains unclaimed in its treasury or in the official custody of its
10 officers for three years is the property of the local agency after
11 notice if not claimed or if no verified complaint is filed and served.
12 At any time after the expiration of the three-year period, the
13 treasurer of the local agency may cause a notice to be published
14 once a week for two successive weeks in a newspaper of general
15 circulation published in the local agency. At the expiration of the
16 three-year period, money representing restitution collected on
17 behalf of victims shall be deposited into the Restitution Fund or
18 used by the local agency for purposes of victim services. If a local
19 agency elects to use the money for purposes of victim services,
20 the local agency shall first document that it has made a reasonable
21 effort to locate and notify the victim to whom the restitution is
22 owed. With respect to moneys deposited with the county treasurer
23 pursuant to Section 7663 of the Probate Code, this three-year period
24 to claim money held by a local agency is extended for an infant
25 or person of unsound mind until one year from the date their
26 disability ceases.

27 For purposes of this section, "infant" and "person of unsound
28 mind" have the same meaning as given to those terms as used in
29 Section 1441 of the Code of Civil Procedure.

30 ~~SEC. 26.~~

31 *SEC. 25.* Section 68085 of the Government Code is amended
32 to read:

33 68085. (a) (1) There is hereby established the Trial Court
34 Trust Fund, the proceeds of which shall be apportioned for the
35 purposes authorized in this section, including apportionment to
36 the trial courts to fund trial court operations, as defined in Section
37 77003.

38 (2) The apportionment payments shall be made by the
39 Controller. The final payment from the Trial Court Trust Fund for

1 each fiscal year shall be made on or before August 31 of the
2 subsequent fiscal year.

3 (A) Notwithstanding any other provision of law, in order to
4 promote statewide efficiency, the Judicial Council may authorize
5 the direct payment or reimbursement or both of actual costs from
6 the Trial Court Trust Fund or the State Trial Court Improvement
7 and Modernization Fund to fund the costs of operating one or more
8 trial courts upon the authorization of the participating courts. These
9 paid or reimbursed costs may be for services provided to the court
10 or courts by the Administrative Office of the Courts or payment
11 for services or property of any kind contracted for by the court or
12 courts or on behalf of the courts by the Administrative Office of
13 the Courts. The amount of appropriations from the State Trial
14 Court Improvement and Modernization Fund under this subdivision
15 may not exceed 20 percent of the amount deposited in the State
16 Trial Court Improvement and Modernization Fund pursuant to
17 subdivision (a) of Section 77205. The direct payment or
18 reimbursement of costs from the Trial Court Trust Fund may be
19 supported by the reduction of a participating court's allocation
20 from the Trial Court Trust Fund to the extent that the court's
21 expenditures for the program are reduced and the court is supported
22 by the expenditure. The Judicial Council shall provide the affected
23 trial courts with quarterly reports on expenditures from the Trial
24 Court Trust Fund incurred as authorized by this subdivision. The
25 Judicial Council shall establish procedures to provide for the
26 administration of this paragraph in a way that promotes the
27 effective, efficient, reliable, and accountable operation of the trial
28 courts.

29 (B) As used in subparagraph (A), the term "costs of operating
30 one or more trial courts" includes any expenses related to operation
31 of the court or performance of its functions, including, but not
32 limited to, statewide administrative and information technology
33 infrastructure supporting the courts. The term "costs of operating
34 one or more trial courts" is not restricted to items considered "court
35 operations" pursuant to Section 77003, but is subject to policies,
36 procedures, and criteria established by the Judicial Council, and
37 may not include an item that is a cost that must otherwise be paid
38 by the county or city and county in which the court is located.

39 (b) Notwithstanding any other provision of law, the fees listed
40 in subdivision (c) shall all be deposited upon collection in a special

1 account in the county treasury, and transmitted monthly to the
2 State Treasury for deposit in the Trial Court Trust Fund.

3 (c) (1) Except as specified in subdivision (d), this section applies
4 to all fees collected on or before December 31, 2005, pursuant to
5 Sections 631.3, 116.230, and 403.060 of the Code of Civil
6 Procedure and Sections 26820.4, 26823, 26826, 26826.01, 26827,
7 26827.4, 26830, 26832.1, 26833.1, 26835.1, 26836.1, 26837.1,
8 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 26862,
9 68086, 72055, 72056, 72056.01, and 72060.

10 (2) Notwithstanding any other provision of law, except as
11 specified in subdivision (d) of this section and subdivision (a) of
12 Section 68085.7, this section applies to all fees and fines collected
13 on or before December 31, 2005, pursuant to Sections 116.390,
14 116.570, 116.760, 116.860, 177.5, 491.150, 704.750, 708.160,
15 724.100, 1134, 1161.2, and 1218 of the Code of Civil Procedure,
16 Sections 26824, 26828, 26829, 26834, and 72059 of the
17 Government Code, and subdivisions (b) and (c) of Section 166 of
18 the Penal Code.

19 (3) If any of the fees provided for in this subdivision are partially
20 waived by court order, and the fee is to be divided between the
21 Trial Court Trust Fund and any other fund, the amount of the partial
22 waiver shall be deducted from the amount to be distributed to each
23 fund in the same proportion as the amount of each distribution
24 bears to the total amount of the fee.

25 (d) This section does not apply to that portion of a filing fee
26 collected pursuant to Section 26820.4, 26826, 26827, 72055, or
27 72056 that is allocated for dispute resolution pursuant to Section
28 470.3 of the Business and Professions Code, the county law library
29 pursuant to Section 6320 of the Business and Professions Code,
30 the Judges' Retirement Fund pursuant to Section 26822.3,
31 automated recordkeeping or conversion to micrographics pursuant
32 to Sections 26863 and 68090.7, and courthouse financing pursuant
33 to Section 76238. This section also does not apply to fees collected
34 pursuant to subdivisions (a) and (c) of Section 27361.

35 (e) This section applies to all payments required to be made to
36 the State Treasury by any county or city and county pursuant to
37 Section 77201, 77201.1, or 77205.

38 (f) Notwithstanding any other provision of law, an agency shall
39 not change the amounts allocated to any of the funds described in
40 subdivision (a), (b), (c), or (d).

1 (g) The Judicial Council shall reimburse the Controller for the
2 actual administrative costs that will be incurred under this section.
3 Costs reimbursed under this section shall be determined on an
4 annual basis in consultation with the Judicial Council.

5 (h) Any amounts required to be transmitted by a county or city
6 and county to the state pursuant to this section shall be remitted
7 to the State Treasury no later than 45 days after the end of the
8 month in which the fees were collected. This remittance shall be
9 accompanied by a remittance advice identifying the collection
10 month and the appropriate account in the Trial Court Trust Fund
11 to which it is to be deposited. Any remittance that is not made by
12 the county or city and county in accordance with this section shall
13 be considered delinquent, and subject to the interest and penalties
14 specified in this section.

15 (i) Upon receipt of any delinquent payment required pursuant
16 to this section, the Controller shall do the following:

17 (1) Calculate interest on the delinquent payment by multiplying
18 the amount of the delinquent payment at a daily rate equivalent to
19 the rate of return of money deposited in the Local Agency
20 Investment Fund pursuant to Section 16429.1 from the date the
21 payment was originally due to either 30 days after the date of the
22 issuance by the Controller of the final audit report concerning the
23 failure to pay or the date of payment by the entity responsible for
24 the delinquent payment, whichever comes first.

25 (2) Calculate a penalty at a daily rate equivalent to 1 ½ percent
26 per month from the date 30 days after the date of the issuance by
27 the Controller of the final audit report concerning the failure to
28 pay.

29 (j) (1) Interest or penalty amounts calculated pursuant to
30 subdivision (i) shall be paid by the county, city and county, or
31 court to the Trial Court Trust Fund no later than 45 days after the
32 end of the month in which the interest or penalty was calculated.
33 Payment shall be made by the entity responsible for the error or
34 other action that caused the failure to pay, as determined by the
35 Controller in notice given to that party by the Controller.

36 (2) Notwithstanding Section 77009, any interest or penalty on
37 a delinquent payment that a court is required to make pursuant to
38 this section and Section 24353 shall be paid from the Trial Court
39 Operations Fund for that court.

1 (3) The Controller may permit a county, city and county, or
2 court to pay the interest or penalty amounts according to a payment
3 schedule in the event of a large interest or penalty amount that
4 causes a hardship to the paying entity.

5 (4) The party responsible for the error or other action that caused
6 the failure to pay may include, but is not limited to, the party that
7 collected the funds who is not the party responsible for remitting
8 the funds to the Trial Court Trust Fund, if the collecting party
9 failed or delayed in providing the remitting party with sufficient
10 information needed by the remitting party to distribute the funds.

11 (k) The Trial Court Trust Fund shall be invested in the Surplus
12 Money Investment Fund and all interest earned shall be allocated
13 to the Trial Court Trust Fund quarterly and shall be allocated
14 among the courts in accordance with the requirements of
15 subdivision (a).

16 (l) It is the intent of the Legislature that the revenues required
17 to be deposited into the Trial Court Trust Fund be remitted as soon
18 after collection by the courts as possible.

19 (m) Except for subdivisions (a) and (k), this section does not
20 apply to fees and fines that are listed in subdivision (a) of Section
21 68085.1 that are collected on or after January 1, 2006.

22 (n) The changes made to subdivisions (i) and (j) of this section
23 by the act adding this subdivision shall apply to all delinquent
24 payments for which no final audit has been issued by the Controller
25 prior to January 1, 2008.

26 (o) The Judicial Council shall not expend any of these funds on
27 the system known as the Court Case Management System, except
28 for the maintenance and operation of Court Case Management
29 System Version 2 and Version 3.

30 (p) Nothing in this section or any other provision of law shall
31 be construed to authorize the Judicial Council to redirect funds
32 from the Trial Court Trust Fund for any purpose other than for
33 allocation to trial courts or as otherwise specifically appropriated
34 by statute.

35 ~~SEC. 27.~~

36 *SEC. 26.* Section 68085.1 of the Government Code is amended
37 to read:

38 68085.1. (a) This section applies to all fees and fines that are
39 collected on or after January 1, 2006, under all of the following:

- 1 (1) Sections 177.5, 209, 403.060, 491.150, 631.3, 683.150,
2 704.750, 708.160, 724.100, 1134, 1161.2, 1218, and 1993.2 of,
3 subdivision (g) of Section 411.20 and subdivisions (c) and (g) of
4 Section 411.21 of, subdivision (b) of Section 631 of, and Chapter
5 5.5 (commencing with Section 116.110) of Title 1 of Part 1 of, the
6 Code of Civil Procedure.
- 7 (2) Section 3112 of the Family Code.
- 8 (3) Section 31622 of the Food and Agricultural Code.
- 9 (4) Subdivision (d) of Section 6103.5, Sections 68086 and
10 68086.1, subdivision (d) of Section 68511.3, Sections 68926.1 and
11 69953.5, and Chapter 5.8 (commencing with Section 70600).
- 12 (5) Section 103470 of the Health and Safety Code.
- 13 (6) Subdivisions (b) and (c) of Section 166 of the Penal Code.
- 14 (7) Sections 1835, 1851.5, 2343, 7660, and 13201 of the Probate
15 Code.
- 16 (8) Sections 14607.6 and 16373 of the Vehicle Code.
- 17 (9) Section 71386 of this code, Sections 304, 7851.5, and 9002
18 of the Family Code, and Section 1513.1 of the Probate Code, if
19 the reimbursement is for expenses incurred by the court.
- 20 (10) Section 3153 of the Family Code, if the amount is paid to
21 the court for the cost of counsel appointed by the court to represent
22 a child.
- 23 (b) Each superior court shall deposit all fees and fines listed in
24 subdivision (a), as soon as practicable after collection and on a
25 regular basis, into a bank account established for this purpose by
26 the Administrative Office of the Courts. Upon direction of the
27 Administrative Office of the Courts, the county shall deposit civil
28 assessments it collects under the sections listed in subdivision (a)
29 as soon as practicable after collection and on a regular basis into
30 the bank account established for this purpose and specified by the
31 Administrative Office of the Courts. The deposits shall be made
32 as required by rules adopted by, and financial policies and
33 procedures authorized by, the Judicial Council under subdivision
34 (a) of Section 77206. Within 15 days after the end of the month
35 in which the fees and fines are collected, each court, and each
36 county that collects any fines or fees under subdivision (a), shall
37 provide the Administrative Office of the Courts with a report of
38 the fees by categories as specified by the Administrative Office
39 of the Courts. The Administrative Office of the Courts and any
40 court may agree upon a time period greater than 15 days, but in

1 no case more than 30 days after the end of the month in which the
2 fees and fines are collected. The fees and fines listed in subdivision
3 (a) shall be distributed as provided in this section.

4 (c) (1) Within 45 calendar days after the end of the month in
5 which the fees and fines listed in subdivision (a) are collected, the
6 Administrative Office of the Courts shall make the following
7 distributions:

8 (A) To the small claims advisory services, as described in
9 subdivision (f) of Section 116.230 of the Code of Civil Procedure.

10 (B) To dispute resolution programs, as described in subdivision
11 (b) of Section 68085.3 and subdivision (b) of Section 68085.4.

12 (C) To the county law library funds, as described in Sections
13 116.230 and 116.760 of the Code of Civil Procedure, subdivision
14 (b) of Section 68085.3, subdivision (b) of Section 68085.4, and
15 Section 70621 of this code, and Section 14607.6 of the Vehicle
16 Code.

17 (D) To the courthouse construction funds in the Counties of
18 Riverside, San Bernardino, and San Francisco, as described in
19 Sections 70622, 70624, and 70625.

20 (E) To the Trial Court Trust Fund, as described in subdivision
21 (e) of Section 70626, to be used by the Judicial Council to
22 implement and administer the civil representation pilot program
23 under Section 68651.

24 (2) If any distribution under this subdivision is delinquent, the
25 Administrative Office of the Courts shall add a penalty to the
26 distribution as specified in subdivision (i).

27 (d) Within 45 calendar days after the end of the month in which
28 the fees and fines listed in subdivision (a) are collected, the
29 amounts remaining after the distributions in subdivision (c) shall
30 be transmitted to the State Treasury for deposit in the Trial Court
31 Trust Fund and other funds as required by law. This remittance
32 shall be accompanied by a remittance advice identifying the
33 collection month and the appropriate account in the Trial Court
34 Trust Fund or other fund to which it is to be deposited. Upon the
35 receipt of any delinquent payment required under this subdivision,
36 the Controller shall calculate a penalty as provided under
37 subdivision (i).

38 (e) From the money transmitted to the State Treasury under
39 subdivision (d), the Controller shall make deposits as follows:

- 1 (1) Into the State Court Facilities Construction Fund, the Judges'
2 Retirement Fund, and the Equal Access Fund, as described in
3 subdivision (c) of Section 68085.3 and subdivision (c) of Section
4 68085.4.
- 5 (2) Into the Health Statistics Special Fund, as described in
6 subdivision (b) of Section 70670 of this code and Section 103730
7 of the Health and Safety Code.
- 8 (3) Into the Family Law Trust Fund, as described in Section
9 70674.
- 10 (4) Into the Immediate and Critical Needs Account of the State
11 Court Facilities Construction Fund, established in Section 70371.5,
12 as described in Sections 68085.3, 68085.4, and 70657.5, and
13 subdivision (e) of Section 70617.
- 14 (5) The remainder of the money shall be deposited into the Trial
15 Court Trust Fund.
- 16 (f) The amounts collected by each superior court under Section
17 116.232, subdivision (g) of Section 411.20, and subdivision (g) of
18 Section 411.21 of the Code of Civil Procedure, Sections 304, 3112,
19 3153, 7851.5, and 9002 of the Family Code, subdivision (d) of
20 Section 6103.5, subdivision (d) of Section 68511.3 and Sections
21 68926.1, 69953.5, 70627, 70631, 70640, 70661, 70678, and 71386
22 of this code, and Sections 1513.1, 1835, 1851.5, and 2343 of the
23 Probate Code shall be added to the monthly apportionment for that
24 court under subdivision (a) of Section 68085.
- 25 (g) If any of the fees provided in subdivision (a) are partially
26 waived by court order or otherwise reduced, and the fee is to be
27 divided between the Trial Court Trust Fund and any other fund or
28 account, the amount of the reduction shall be deducted from the
29 amount to be distributed to each fund in the same proportion as
30 the amount of each distribution bears to the total amount of the
31 fee. If the fee is paid by installment payments, the amount
32 distributed to each fund or account from each installment shall
33 bear the same proportion to the installment payment as the full
34 distribution to that fund or account does to the full fee. If a court
35 collects a fee that was incurred before January 1, 2006, under a
36 provision that was the predecessor to one of the paragraphs
37 contained in subdivision (a), the fee may be deposited as if it were
38 collected under the paragraph of subdivision (a) that corresponds
39 to the predecessor of that paragraph and distributed in prorated

1 amounts to each fund or account to which the fee in subdivision
2 (a) must be distributed.

3 (h) Except as provided in Sections 470.5 and 6322.1 of the
4 Business and Professions Code, and Sections 70622, 70624, and
5 70625 of this code, an agency shall not take action to change the
6 amounts allocated to any of the funds described in subdivision (c),
7 (d), or (e).

8 (i) The amount of the penalty on any delinquent payment under
9 subdivision (c) or (d) shall be calculated by multiplying the amount
10 of the delinquent payment at a daily rate equivalent to 1 ½ percent
11 per month for the number of days the payment is delinquent. The
12 penalty shall be paid from the Trial Court Trust Fund. Penalties
13 on delinquent payments under subdivision (d) shall be calculated
14 only on the amounts to be distributed to the Trial Court Trust Fund
15 and the State Court Facilities Construction Fund, and each penalty
16 shall be distributed proportionately to the funds to which the
17 delinquent payment was to be distributed.

18 (j) If a delinquent payment under subdivision (c) or (d) results
19 from a delinquency by a superior court under subdivision (b), the
20 court shall reimburse the Trial Court Trust Fund for the amount
21 of the penalty. Notwithstanding Section 77009, any penalty on a
22 delinquent payment that a court is required to reimburse pursuant
23 to this section shall be paid from the court operations fund for that
24 court. The penalty shall be paid by the court to the Trial Court
25 Trust Fund no later than 45 days after the end of the month in
26 which the penalty was calculated. If the penalty is not paid within
27 the specified time, the Administrative Office of the Courts may
28 reduce the amount of a subsequent monthly allocation to the court
29 by the amount of the penalty on the delinquent payment.

30 (k) If a delinquent payment under subdivision (c) or (d) results
31 from a delinquency by a county in transmitting fees and fines listed
32 in subdivision (a) to the bank account established for this purpose,
33 as described in subdivision (b), the county shall reimburse the Trial
34 Court Trust Fund for the amount of the penalty. The penalty shall
35 be paid by the county to the Trial Court Trust Fund no later than
36 45 days after the end of the month in which the penalty was
37 calculated.

38 ~~SEC. 28.~~

39 *SEC. 27.* Section 68085.5 of the Government Code is amended
40 to read:

1 68085.5. (a) Notwithstanding any other provision of law,
2 except subdivision (h) and Section 68085.6, the fees and fines
3 collected pursuant to Sections 116.390, 116.570, 116.760, 116.860,
4 491.150, 704.750, 708.160, 724.100, 1134, and 1161.2 of the Code
5 of Civil Procedure, Sections 26824, 26828, 26829, 26834, and
6 72059 of the Government Code, and Section 1835 of the Probate
7 Code, that are not part of a local revenue sharing agreement or
8 practice shall be deposited in a special account in the county
9 treasury and transmitted therefrom monthly to the Controller for
10 deposit in the Trial Court Trust Fund.

11 (b) Notwithstanding any other provision of law, except
12 subdivision (h) and Section 68085.6, the fees and fines collected
13 pursuant to Sections 26827.6, 26827.7, 26840.1, 26847, 26854,
14 26855.1, 26855.2, 26859, 27293, 71386, and 72061 of the
15 Government Code, Section 103470 of the Health and Safety Code,
16 Sections 1203.4 and 1203.45 of the Penal Code, Sections 2343,
17 7660, and 13201 of the Probate Code, and Section 14607.6 of the
18 Vehicle Code, that are not subject to a local revenue sharing
19 agreement or practice, shall be deposited in a special account in
20 the county treasury.

21 (c) If a superior court incurs the cost or provides the services
22 specified in subdivision (b), the fees and fines collected shall be
23 transmitted from the special account in the county treasury monthly
24 to the Controller for deposit in the Trial Court Trust Fund.

25 (d) (1) Until July 1, 2005, each superior court and each county
26 shall maintain the distribution of revenue from the fees specified
27 in subdivisions (a) and (b) that is in effect pursuant to an agreement
28 or practice that is in place at the time this section takes effect.

29 (2) In order to ensure that expenditures from revenue sharing
30 agreements are consistent with Judicial Council fiscal and
31 budgetary policy, the Administrative Director of the Courts shall
32 review and approve all distribution of revenue agreements that are
33 negotiated after the effective date of this section. If approval of an
34 agreement negotiated after the effective date of this section is not
35 granted, the director shall advise the court and county of the reasons
36 for not granting approval and suggest modifications that will make
37 the agreement consistent with the Judicial Council fiscal and
38 budgetary policies.

39 (e) The Administrative Office of the Courts and the California
40 State Association of Counties shall jointly determine and administer

1 on or after January 1, 2004, and on or after January 1, 2005, all of
2 the following:

3 (1) The amount of revenue that was deposited in the Trial Court
4 Trust Fund pursuant to subdivisions (a) and (b) during the calendar
5 year that just ended.

6 (2) The difference between the amount specified in subdivision
7 (c) and thirty-one million dollars (\$31,000,000).

8 (3) A county-by-county transfer of the amount specified in
9 paragraph (2) to the Trial Court Trust Fund in two equal
10 installments, on February 15 and May 15, in each fiscal year.

11 (4) Any payment to correct for an overpayment or underpayment
12 made for the 2003–04 fiscal year, shall be paid to the appropriate
13 party on or before September 15, 2004. Any payment to correct
14 for an overpayment or underpayment made for the 2004–05 fiscal
15 year, shall be paid to the appropriate party on or before November
16 15, 2005.

17 (5) The sum of the amounts specified in paragraphs (1) and (2)
18 may not exceed thirty-one million dollars (\$31,000,000), and shall
19 be deposited in the Trial Court Trust Fund.

20 (6) Counties that have not paid amounts billed under this section
21 for the 2003–04 or 2004–05 fiscal year shall pay the amounts still
22 owing to the Trial Court Trust Fund on or before September 1,
23 2005. If payment is not received on or before September 1, 2005,
24 it shall be considered delinquent and subject to the penalties set
25 forth in Section 68085.

26 (7) Penalty amounts calculated under paragraph (6) shall be
27 paid by the county or the city and county to the Trial Court Trust
28 Fund no later than 45 days after the end of the month in which the
29 penalty was calculated.

30 (f) Each superior court and each county shall provide detailed
31 quarterly reports of the revenues generated by the fees and fines
32 specified in subdivisions (a) and (b), Sections 177.5 and 1218 of
33 the Code of Civil Procedure, and Section 166 of the Penal Code.
34 The reports shall include the total amount collected and retained
35 by the court or county and the existing distribution of those fees.

36 (g) No other transfers of the fees and fines specified in
37 subdivisions (a) and (b), Sections 177.5 and 1218 of the Code of
38 Civil Procedure, and Section 166 of the Penal Code shall take
39 effect prior to July 1, 2005.

1 (h) This section does not apply to fees and fines specified in
2 subdivisions (a), (b), and (f) that are collected on or after July 1,
3 2005.

4 (i) Nothing in this section shall be deemed to alter or make void
5 the shift of responsibility for court funding from the counties to
6 the state.

7 ~~SEC. 29.~~

8 *SEC. 28.* Section 68085.7 of the Government Code is amended
9 to read:

10 68085.7. (a) (1) Notwithstanding any other provision of law,
11 Section 68085.5 does not apply to the following fees and fines
12 collected on or after July 1, 2005: any fees and fines specified in
13 subdivision (a) or (b) of Section 68085.5, Section 177.5 or 1218
14 of the Code of Civil Procedure, or Section 166 of the Penal Code.
15 Commencing July 1, 2005, these fees and fines shall be distributed
16 as provided by Section 68085, except that the fees listed in
17 subdivision (b) of Section 68085.5 and the fee in Section 1835 of
18 the Probate Code shall be distributed to the court or the county,
19 whichever provided the services for which the fee is charged or
20 incurred the costs reimbursed by the fee.

21 (2) Notwithstanding any other provision of law, until January
22 1, 2006, upon direction of the Administrative Office of the Courts,
23 the court and the county shall deposit the money each collects
24 under the sections listed in paragraph (2) of subdivision (c) of
25 Section 68085 as soon as practicable after collection and on a
26 regular basis into a bank account established for this purpose and
27 specified by the Administrative Office of the Courts. The deposits
28 shall be made as required by rules adopted ~~by~~ *by*, and financial
29 policies and procedures authorized ~~by~~ *by*, the Judicial Council
30 under subdivision (a) of Section 77206 of the Government Code.
31 Within 15 days after the end of the month in which the money is
32 collected, the court and the county each shall provide the
33 Administrative Office of the Courts with a report of the money it
34 collects, as specified by the Administrative Office of the Courts.
35 The money shall be transmitted to the ~~State~~ Controller for deposit
36 in the Trial Court Trust Fund by the Administrative Office of the
37 Courts.

38 (3) Commencing January 1, 2006, the fees and fines listed in
39 Section 68085.5 shall be distributed as provided by Section
40 68085.1, or if no provision is made in Section 68085.1, as specified

1 in the section that provides for the fee or fine. The fees in Sections
2 26840.1, 26847, 26854, 26855.1, 26855.2, and 27293 shall be
3 distributed to the county.

4 (b) The amount of the reduction under this section for each
5 county shall be determined by agreement between the
6 Administrative Office of the Courts (AOC) and the California
7 State Association of Counties (CSAC). Each county and each
8 superior court shall exchange relevant factual information to
9 determine and jointly report to the AOC and the CSAC the total
10 amount the county received from civil assessments for the 2003–04
11 fiscal year, both gross and net after costs, on or before August 31,
12 2005. If the court and the county do not agree on the amount, the
13 court and the county shall each report the amount each believes is
14 correct to the AOC and the CSAC on or before August 31, 2005.

15 (c) The AOC and the CSAC shall agree on the amount of the
16 reduction for each county under this section on or before October
17 31, 2005. If a court or county disagrees with the amount agreed to
18 by the AOC and the CSAC for that county, the court or county
19 may appeal to the AOC and the CSAC for an adjustment. The
20 AOC and the CSAC shall determine whether to make any requested
21 adjustment.

22 (d) If the AOC and the CSAC do not agree on the amount of
23 the reduction for a county, they may request a mutually
24 agreed-upon third party to arbitrate and determine the amount. The
25 amount shall be determined on or before December 31, 2005.

26 (e) The costs of collecting civil assessments applied in
27 determining net civil assessments are only those costs used to
28 collect those civil assessments.

29 ~~SEC. 30.~~

30 *SEC. 29.* Section 68085.8 of the Government Code is amended
31 to read:

32 68085.8. (a) On or before December 31, 2005, the
33 Administrative Office of the Courts (AOC) and the California
34 State Association of Counties (CSAC) shall complete an initial
35 review of the impact upon individual counties and courts of the
36 changes in revenue distributions and payment obligations under
37 Sections ~~68085.6~~, 68085.6 and 68085.7 for the purpose of
38 correcting inequities that may result from these changes. The AOC
39 and CSAC shall work with counties and courts to develop and
40 implement procedures to correct inequities resulting from either

1 the implementation of these changes or any changes in the
2 provision of services or benefits under any of the following
3 circumstances:

4 (1) Institution of new civil assessment programs after the
5 2003–04 fiscal year.

6 (2) Substantial impacts on memoranda of understanding or other
7 agreements that are existing or pending as of June 10, 2005, or
8 practices in effect at that time, which agreements and practices
9 contemplate the use of revenues transferred under the act that
10 added this section.

11 (3) The demonstration by clear evidence that the information
12 used as the basis for determining a reduction under Section
13 68085.7, or for determining a county's obligation under Section
14 68085.6, results in an inequity, and that the inequity imposes an
15 undue hardship on the court or county.

16 (b) Inequities may be corrected by one or more of the following
17 mechanisms:

18 (1) Adjustment of the amount of a county's obligation under
19 subdivision (a) of Section 68085.6.

20 (2) Adjustment of allocations to a trial court from the Trial Court
21 Trust Fund under subdivision (a) of Section 68085.

22 (3) If necessary, with agreement of the court and county,
23 adjustments of the rights and duties of the parties under memoranda
24 of understanding or other agreements or practices.

25 The adjustments under paragraphs (1) to (3), inclusive, may be
26 temporary or permanent. Adjustments under this section shall be
27 made only with the mutual agreement of the AOC and CSAC.

28 ~~SEC. 31. Section 68635 of the Government Code is repealed.~~

29 ~~SEC. 32. Section 68635 is added to the Government Code, to~~
30 ~~read:~~

31 ~~68635. Notwithstanding any other law, a person who is~~
32 ~~sentenced to state prison or confined in a county jail shall not be~~
33 ~~required to pay any trial court filing fees or costs related to the~~
34 ~~person's underlying criminal conviction for which the person is~~
35 ~~incarcerated.~~

36 ~~SEC. 33. Section 71380 of the Government Code is amended~~
37 ~~to read:~~

38 ~~71380. The Controller shall establish, supervise, and maintain~~
39 ~~trial court revenue distribution guidelines, including a program to~~
40 ~~audit the accuracy of distributions as provided by law, to ensure~~

1 that all fines, penalties, and forfeitures assessed by courts, and
2 their collection and appropriate disbursement, shall be properly
3 accounted for and distributed. The trial court revenue distribution
4 guidelines shall apply to superior courts, counties, including
5 counties' probation departments, central collection bureaus, and
6 any other agencies or entities having a role in this process.

7 ~~SEC. 34.~~ Section 71386 of the Government Code is amended
8 to read:

9 ~~71386.~~ (a) Each superior court shall adopt a written policy,
10 consistent with rules adopted by, or trial court financial policies
11 and procedures authorized by, the Judicial Council under
12 subdivision (a) of Section 77206, governing the acceptance of
13 checks and money orders in payment of any fines or bail deposits.
14 The policy shall permit clerks to accept checks and money orders
15 under conditions that tend to assure their validity.

16 (b) A court shall accept a personal check, bank cashier's check,
17 or money order for payment of any fee or fine, or for a deposit of
18 bail for any offense that is not declared to be a felony, provided
19 the check or money order meets the criteria established in
20 subdivision (a). However, no court shall be required to accept a
21 check in excess of three hundred dollars (\$300) from a defendant
22 in custody as a deposit of bail for any alleged violation of the Penal
23 Code.

24 (c) The acceptance of a check pursuant to this section constitutes
25 payment of the obligation owed to the payee public agency to the
26 extent of the amount of the check as of the date of acceptance.

27 ~~SEC. 35.~~

28 ~~SEC. 30.~~ Section 76000.10 of the Government Code is amended
29 to read:

30 76000.10. (a) This section shall be known, and may be cited,
31 as the Emergency Medical Air Transportation Act.

32 (b) For purposes of this section:

33 (1) "Department" means the State Department of Health Care
34 Services.

35 (2) "Director" means the Director of Health Care Services.

36 (3) "Provider" means a provider of emergency medical air
37 transportation services.

38 (4) "Rotary wing" means a type of aircraft, commonly referred
39 to as a helicopter, that generates lift through the use of wings,
40 known as rotor blades, that revolve around a mast.

1 (5) "Fixed wing" means a type of aircraft, commonly referred
2 to as an airplane, that generates lift through the use of the forward
3 motion of the aircraft and wings that do not revolve around a mast
4 but are fixed in relation to the fuselage of the aircraft.

5 (6) "Air mileage rate" means the per-mileage reimbursement
6 rate paid for services rendered by rotary-wing and fixed-wing
7 providers.

8 (c) (1) For purposes of implementing this section, a penalty of
9 four dollars (\$4) shall be imposed upon every conviction for a
10 violation of the Vehicle Code or a local ordinance adopted pursuant
11 to the Vehicle Code, except parking offenses subject to Article 3
12 (commencing with Section 40200) of Chapter 1 of Division 17 of
13 the Vehicle Code.

14 (2) The penalty described in this subdivision is in addition to
15 the state penalty assessed pursuant to Section 1464 of the Penal
16 Code. However, this penalty shall not be included in the base fine
17 used to calculate the state penalty assessment pursuant to
18 subdivision (a) of Section 1464 of the Penal Code, the state
19 surcharge levied pursuant to Section 1465.7 of the Penal Code,
20 and the state court construction penalty pursuant to Section 70372
21 of this code, and to calculate the other additional penalties levied
22 pursuant to this chapter.

23 (d) The county or the court that imposed the fine shall, in
24 accordance with the procedures set out in Section 68101, transfer
25 moneys collected pursuant to this section to the Treasurer for
26 deposit into the Emergency Medical Air Transportation and
27 Children's Coverage Fund, which is hereby established in the State
28 Treasury. Notwithstanding Section 16305.7, the Emergency
29 Medical Air Transportation and Children's Coverage Fund shall
30 include interest and dividends earned on money in the fund. Any
31 law that references the Emergency Medical Air Transportation
32 Act Fund, as previously established by this subdivision, shall be
33 construed to reference the Emergency Medical Air Transportation
34 and Children's Coverage Fund, effective January 1, 2018.

35 (e) (1) The Emergency Medical Air Transportation and
36 Children's Coverage Fund shall be administered by the State
37 Department of Health Care Services. Moneys in the Emergency
38 Medical Air Transportation and Children's Coverage Fund shall
39 be made available, upon appropriation by the Legislature, to the
40 department for any of the following purposes:

1 (A) For children's health care coverage.

2 (B) For emergency medical air transportation provider payments,
3 as follows:

4 (i) For payment of the administrative costs of the department
5 in administering emergency medical air transportation provider
6 payments.

7 (ii) Twenty percent of the appropriated money remaining after
8 payment of administrative costs pursuant to clause (i) shall be used
9 to offset the state portion of the Medi-Cal reimbursement rate for
10 emergency medical air transportation services.

11 (iii) Eighty percent of the appropriated money remaining after
12 payment of administrative costs pursuant to clause (i) shall be used
13 to augment emergency medical air transportation reimbursement
14 payments made through the Medi-Cal program, as set forth in
15 paragraphs (2) and (3).

16 (2) If money in the Emergency Medical Air Transportation and
17 Children's Coverage Fund is made available to the department for
18 the purpose described in subparagraph (B) of paragraph (1), both
19 of the following shall occur:

20 (A) The department shall seek to obtain federal matching funds
21 by using the moneys in the Emergency Medical Air Transportation
22 and Children's Coverage Fund for the purpose of augmenting
23 Medi-Cal reimbursement paid to emergency medical air
24 transportation providers.

25 (B) The director shall augment emergency medical air
26 transportation provider payments in accordance with a federally
27 approved reimbursement methodology. The director may seek
28 federal approvals or waivers as may be necessary to implement
29 this section and to obtain federal financial participation to the
30 maximum extent possible for the payments under this section.

31 (3) (A) Upon appropriation by the Legislature, the department
32 shall use moneys in the Emergency Medical Air Transportation
33 and Children's Coverage Fund and any federal matching funds to
34 do any of the following:

35 (i) Fund children's health care coverage.

36 (ii) Increase the Medi-Cal reimbursement for emergency medical
37 air transportation services in an amount not to exceed normal and
38 customary charges charged by the providers.

39 (B) Notwithstanding any other law, and pursuant to this section,
40 if money in the Emergency Medical Air Transportation and

1 Children's Coverage Fund is made available to the department for
2 the purpose described in subparagraph (B) of paragraph (1), the
3 department shall increase the Medi-Cal reimbursement for
4 emergency medical air transportation services if both of the
5 following conditions are met:

6 (i) Moneys in the Emergency Medical Air Transportation and
7 Children's Coverage Fund will cover the cost of increased
8 payments pursuant to clause (iii) of subparagraph (B) of paragraph
9 (1).

10 (ii) The state does not incur any General Fund expense to pay
11 for the Medi-Cal emergency medical air transportation services
12 increase.

13 (f) The assessment of penalties pursuant to this section shall
14 terminate on January 1, 2020. Penalties assessed before January
15 1, 2020, shall cease to be collected, administered, and distributed
16 as of that date. On January 1, 2020, moneys remaining unexpended
17 and unencumbered in the Emergency Medical Air Transportation
18 and Children's Coverage Fund shall be transferred to the General
19 Fund, to be available, upon appropriation by the Legislature, for
20 the purposes of augmenting Medi-Cal reimbursement for
21 emergency medical air transportation and related costs, generally,
22 or funding children's health care coverage.

23 (g) Notwithstanding the rulemaking provisions of Chapter 3.5
24 (commencing with Section 11340) of Part 1 of Division 3 of Title
25 2, the department may implement, interpret, or make specific this
26 section and any applicable federal waivers and state plan
27 amendments by means of all-county letters, plan letters, plan or
28 provider bulletins, or similar instructions without taking regulatory
29 action.

30 (h) This section shall remain in effect only until January 1, 2021,
31 and as of that date is repealed, unless a later enacted statute, that
32 is enacted before January 1, 2021, deletes or extends that date.

33 ~~SEC. 36.~~

34 *SEC. 31.* Section 76223 of the Government Code is amended
35 to read:

36 76223. Notwithstanding any other provision of law, the
37 following conditions pertain to the construction of court facilities
38 in Merced County by the County of Merced for any construction
39 pursuant to a written agreement entered into prior to January 1,

1 2004, between the board of supervisors and the presiding judge of
2 the superior court:

3 (a) The presiding judge of the superior court may agree to make
4 available court funds, up to a stated amount, other than funds
5 received from the Trial Court Trust Fund or other state sources,
6 in the courthouse construction fund.

7 (b) The total amounts deposited under subdivision (a) may not
8 exceed in any fiscal year the amount payable on the construction
9 costs less (1) any amounts paid by the courthouse construction
10 fund and (2) any other amounts paid from other sources except for
11 any amounts paid pursuant to subdivision (b).

12 (c) The total amounts deposited under subdivision (b) shall not
13 exceed in any fiscal year the amount payable on the construction
14 costs less (1) any amounts paid by the courthouse construction
15 fund, (2) any amounts paid pursuant to subdivision (a) of this
16 section, and (3) any other amounts paid from other sources except
17 for any amounts paid pursuant to subdivision (b).

18 (d) If legislation is passed and becomes effective transferring
19 the responsibility for court facilities to the state, and the legislation
20 permits the transfer of the bonded indebtedness or other
21 encumbrance on court facilities together with revenue sources for
22 payment of the bonded indebtedness or other encumbrance, the
23 revenue sources provided for by this section may also be transferred
24 to the state.

25 (e) As used in this section, the costs of construction also includes
26 the payment on the bonded indebtedness or other encumbrance
27 used to finance the construction.

28 ~~SEC. 37. Section 77009 of the Government Code is amended~~
29 ~~to read:~~

30 ~~77009. (a) The Judicial Council may establish bank accounts~~
31 ~~for the superior courts and require the courts to deposit moneys~~
32 ~~for trial court operations, and any other moneys under the control~~
33 ~~of the courts, into those accounts. Deposits to these accounts shall~~
34 ~~include, but are not limited to, the following:~~

35 ~~(1) Moneys appropriated in the Budget Act and allocated or~~
36 ~~reallocated to the superior court by the Judicial Council.~~

37 ~~(2) Moneys held in trust.~~

38 ~~(3) Other moneys as deemed necessary or appropriate.~~

39 ~~(b) Subdivision (a) shall not apply to payments from a party or~~
40 ~~a defendant received by the superior court for any criminal fines~~

1 or forfeitures. However, the court and county may enter into a
2 contract for the court to provide depository services in an account
3 established by the Judicial Council for criminal fines and
4 forfeitures, with the approval of the Administrative Director of the
5 Courts. The contract shall identify the scope of service, method
6 of service delivery, term of agreement, anticipated service
7 outcomes, and the cost of the service. The amount of any indirect
8 or overhead costs shall be individually stated with the method of
9 calculation of the indirect or overhead costs.

10 (e) Moneys deposited into a bank account established pursuant
11 to subdivision (a) for the Trial Court Operations Fund that are
12 appropriated in the Budget Act and allocated or reallocated to the
13 superior court by the Judicial Council shall be payable only for
14 the purposes set forth in Sections 77003 and 77006.5, and for
15 services purchased by the court pursuant to subdivisions (b) and
16 (c) of Section 77212.

17 (d) (1) All moneys received by a superior court from any source
18 for court operating and program purposes shall be deposited into
19 a bank account established pursuant to subdivision (a) and
20 accounted for in the Trial Court Operations Fund. Moneys that are
21 received to fulfill the requirements of Article 4 (commencing with
22 Section 4250) of Chapter 2 of Part 2 of Division 9 and Division
23 14 (commencing with Section 10000) of the Family Code shall be
24 identified and maintained in a separate account established in the
25 fund for this purpose.

26 (2) All other moneys deposited into a bank account established
27 pursuant to subdivision (a) and accounted for in the Trial Court
28 Operations Fund that are received for purposes other than court
29 operations, as defined in Section 77003 and Rule 10.810 of the
30 California Rules of Court, shall be identified and maintained in
31 separate accounts in the fund.

32 (3) This subdivision shall not apply to either of the following:

33 (A) Moneys received by the courts pursuant to paragraph (2)
34 of subdivision (a) of this section and Section 68084, if those
35 moneys are not for court operating or program purposes.

36 (B) Payments from a party or a defendant received by the county
37 for any fines or forfeitures; moneys collected by the superior court
38 under Chapter 5.8 (commencing with Section 70600); or fines to
39 which Section 68085.1 applies.

1 ~~(e) The presiding judge of the superior court, or the judge's~~
2 ~~designee, shall authorize and direct all expenditures by the court~~
3 ~~for operating and program purposes from any account established~~
4 ~~under subdivision (b) or (c).~~

5 ~~(f) The Judicial Council, in consultation with the Controller's~~
6 ~~office, shall establish procedures to implement this section and to~~
7 ~~provide for payment of trial court operations expenses, as described~~
8 ~~in Sections 77003 and 77006.5, incurred on July 1, 1997, and~~
9 ~~thereafter.~~

10 ~~(g) (1) If the Judicial Council has not established bank accounts~~
11 ~~pursuant to subdivision (a), the court shall contract with the county~~
12 ~~for fiscal services. Each board of supervisors shall maintain in the~~
13 ~~county treasury a Trial Court Operations Fund, which will operate~~
14 ~~as an agency fund. All moneys appropriated in the Budget Act and~~
15 ~~allocated and reallocated to the superior court in the county by the~~
16 ~~Judicial Council shall be deposited into the fund.~~

17 ~~(2) Moneys deposited into the fund that are appropriated for the~~
18 ~~Trial Court Operations Fund in the Budget Act and allocated or~~
19 ~~reallocated to the superior court by the Judicial Council shall be~~
20 ~~payable only for the purposes set forth in Sections 77003 and~~
21 ~~77006.5, and for services purchased by the court pursuant to~~
22 ~~subdivisions (b) and (c) of Section 77212. The presiding judge of~~
23 ~~the superior court, or the judge's designee, shall authorize and~~
24 ~~direct expenditures from the fund and the county auditor-controller~~
25 ~~shall make payments from the funds as directed. Approval of the~~
26 ~~board of supervisors is not required for expenditure from this fund.~~

27 ~~(3) All moneys received by a superior court from any source~~
28 ~~for court operating and program purposes shall be deposited in the~~
29 ~~fund, except as provided in this subdivision. Moneys that are~~
30 ~~received to fulfill the requirements of Article 4 (commencing with~~
31 ~~Section 4250) of Chapter 2 of Part 2 of Division 9 and Division~~
32 ~~14 (commencing with Section 10000) of the Family Code shall be~~
33 ~~identified and maintained in a separate account established in the~~
34 ~~fund for this purpose. All other moneys that are received for~~
35 ~~purposes other than court operations, as defined in Section 77003~~
36 ~~and Rule 10.810 of the California Rules of Court, shall be identified~~
37 ~~and maintained in one or more separate accounts established in~~
38 ~~the fund pursuant to procedures adopted by the Judicial Council.~~
39 ~~This subdivision shall only apply to moneys received by the courts~~

1 ~~for operating and program purposes. This subdivision shall not~~
2 ~~apply to either of the following:~~

3 ~~(A) Moneys received by the courts pursuant to Section 68084;~~
4 ~~if those funds are not for court operating or program purposes.~~

5 ~~(B) Payments from a party or a defendant received by the county~~
6 ~~for any fines or forfeitures; moneys collected by the superior court~~
7 ~~under Chapter 5.8 (commencing with Section 70600); or fines to~~
8 ~~which Section 68085.1 applies.~~

9 ~~(4) Interest received by a county that is attributable to investment~~
10 ~~of moneys, which interest is required by this subdivision to be~~
11 ~~deposited in the superior court's fund, shall be deposited in the~~
12 ~~fund and shall be used for trial court operations purposes.~~

13 ~~(5) In no event shall interest be charged to the superior court's~~
14 ~~fund, except as provided in Section 77009.1.~~

15 ~~(6) Reasonable administrative expenses incurred by the county~~
16 ~~associated with the operation of this fund shall be charged to the~~
17 ~~superior court.~~

18 ~~(7) A county, or city and county, may bill the superior court~~
19 ~~within its jurisdiction for costs for services provided by the county,~~
20 ~~or city and county, as described in Sections 77003 and 77212,~~
21 ~~including indirect costs as described in paragraph (7) of subdivision~~
22 ~~(a) of Section 77003 and Section 77212. The costs billed by the~~
23 ~~county, or the city and the county, pursuant to this subdivision~~
24 ~~shall not exceed the costs incurred by the county, or the city and~~
25 ~~the county, of providing similar services to county departments or~~
26 ~~special districts.~~

27 ~~(8) Pursuant to Section 77206, the Controller, at the request of~~
28 ~~the Legislature, may perform financial and fiscal compliance audits~~
29 ~~of this fund. The Judicial Council or its representatives may~~
30 ~~perform audits, reviews, and investigations of this fund wherever~~
31 ~~the records may be located.~~

32 ~~(h) The Judicial Council or its representatives may perform~~
33 ~~audits, reviews, and investigations of superior court operations~~
34 ~~and records wherever they may be located.~~

35 ~~SEC. 38. Section 77203 of the Government Code is amended~~
36 ~~to read:~~

37 ~~77203. (a) Prior to June 30, 2014, a trial court may carry over~~
38 ~~all unexpended funds from the courts operating budget from the~~
39 ~~prior fiscal year.~~

1 (b) Commencing June 30, 2014, a trial court may carry over
2 unexpended funds in an amount not to exceed 1 percent of the
3 court's operating budget from the prior fiscal year. The calculation
4 of the 1 percent authorized to be carried over from the previous
5 fiscal year shall not include funds received by the court pursuant
6 to the following:

7 (1) Section 470.5 of the Business and Professions Code.

8 (2) Section 116.230 of the Code of Civil Procedure, except for
9 those funds transmitted to the Controller for deposit in the Trial
10 Court Trust Fund pursuant to subdivision (h) of that section.

11 (3) Subdivision (f) of Section 13963, Sections 26731, 66006,
12 68090.8, 70640, 70678, and 76223, subdivision (b) of Section
13 77207.5, and subdivision (h) of Section 77209.

14 (4) The portion of filing fees collected for conversion to
15 micrographics pursuant to former Section 26863, as that section
16 read immediately before its repeal, and Section 27361.4.

17 (5) Sections 1027 and 1463.007, subdivision (a) of Section
18 1463.22, and Sections 4750 and 6005, of the Penal Code.

19 (6) Section 11205.2 of the Vehicle Code.

20 SEC. 39. Section 77205 of the Government Code is amended
21 to read:

22 77205. (a) Notwithstanding any other provision of law, in any
23 year in which a county collects fee, fine, and forfeiture revenue
24 for deposit into the county general fund pursuant to Sections
25 1463.001 and 1464 of the Penal Code, Sections 42007 and 42008
26 of the Vehicle Code, and Sections 27361 and 76000 of the
27 Government Code that would have been deposited into the General
28 Fund pursuant to these sections as they read on December 31,
29 1997, and that exceeds the amount specified in paragraph (2) of
30 subdivision (b) of Section 77201 for the 1997-98 fiscal year, and
31 paragraph (2) of subdivision (b) of Section 77201.1 for the 1998-99
32 fiscal year, and thereafter, the excess amount shall be divided
33 between the county or city and county and the state, with 50 percent
34 of the excess transferred to the state for deposit in the State Trial
35 Court Improvement and Modernization Fund and 50 percent of
36 the excess deposited into the county general fund. The Judicial
37 Council shall allocate 80 percent of the amount deposited in the
38 State Trial Court Improvement and Modernization Fund pursuant
39 to this subdivision each fiscal year that exceeds the amount
40 deposited in the 2002-03 fiscal year among:

1 ~~(1) The trial court in the county from which the revenue was~~
2 ~~deposited.~~

3 ~~(2) Other trial courts, as provided in paragraph (1) of subdivision~~
4 ~~(a) of Section 68085.~~

5 ~~(3) For retention in the State Trial Court Improvement and~~
6 ~~Modernization Fund.~~

7 For the purpose of this subdivision, fee, fine, and forfeiture
8 revenue shall only include revenue that would otherwise have been
9 deposited in the General Fund prior to January 1, 1998.

10 ~~(b) Any amounts required to be distributed to the state pursuant~~
11 ~~to subdivision (a) shall be remitted to the Controller no later than~~
12 ~~45 days after the end of the fiscal year in which those fees, fines,~~
13 ~~and forfeitures were collected. This remittance shall be~~
14 ~~accompanied by a remittance advice identifying the quarter of~~
15 ~~collection and stating that the amount should be deposited in the~~
16 ~~State Trial Court Improvement and Modernization Fund.~~

17 ~~(c) Notwithstanding subdivision (a), the following counties~~
18 ~~whose base-year remittance requirement was reduced pursuant to~~
19 ~~subdivision (c) of Section 77201.1 shall not be required to split~~
20 ~~their annual fee, fine, and forfeiture revenues as provided in this~~
21 ~~section until such revenues exceed the following amounts:~~

County	Amount
24 Placer	\$ 1,554,677
25 Riverside	11,028,078
26 San Joaquin	3,694,810
27 San Mateo	5,304,995
28 Ventura	4,637,294

29
30 ~~SEC. 40. Section 11374.5 of the Health and Safety Code is~~
31 ~~amended to read:~~

32 ~~11374.5. (a) Any manufacturer of a controlled substance who~~
33 ~~disposes of any hazardous substance that is a controlled substance~~
34 ~~or a chemical used in, or is a byproduct of, the manufacture of a~~
35 ~~controlled substance in violation of any law regulating the disposal~~
36 ~~of hazardous substances or hazardous waste is guilty of a public~~
37 ~~offense punishable by imprisonment pursuant to subdivision (h)~~
38 ~~of Section 1170 of the Penal Code for two, three, or four years or~~
39 ~~in the county jail not exceeding one year.~~

1 ~~(b) As used in this section the following terms have the~~
2 ~~following meaning:~~

3 ~~(1) "Dispose" means to abandon, deposit, intern, or otherwise~~
4 ~~discard as a final action after use has been achieved or a use is no~~
5 ~~longer intended.~~

6 ~~(2) "Hazardous substance" has the same meaning as defined~~
7 ~~in Section 25316.~~

8 ~~(3) "Hazardous waste" has the same meaning as defined in~~
9 ~~Section 25117.~~

10 ~~SEC. 41. Section 11470.2 of the Health and Safety Code is~~
11 ~~repealed.~~

12 ~~SEC. 42. Section 11470.5 is added to the Health and Safety~~
13 ~~Code, to read:~~

14 ~~11470.5. On and after January 1, 2020, the unpaid balance of~~
15 ~~any court-imposed costs pursuant to Sections 11374.5 and 11470.2,~~
16 ~~as those sections read on December 31, 2019, is unenforceable~~
17 ~~and uncollectible and any portion of a judgment imposing those~~
18 ~~costs shall be vacated.~~

19 ~~SEC. 43.~~

20 ~~SEC. 32. Section 273a of the Penal Code is amended to read:~~

21 ~~273a. (a) Any person who, under circumstances or conditions~~
22 ~~likely to produce great bodily harm or death, willfully causes or~~
23 ~~permits any child to suffer, or inflicts thereon unjustifiable physical~~
24 ~~pain or mental suffering, or having the care or custody of any child,~~
25 ~~willfully causes or permits the person or health of that child to be~~
26 ~~injured, or willfully causes or permits that child to be placed in a~~
27 ~~situation where the child's person or health is endangered, shall~~
28 ~~be punished by imprisonment in a county jail not exceeding one~~
29 ~~year, or in the state prison for two, four, or six years.~~

30 ~~(b) Any person who, under circumstances or conditions other~~
31 ~~than those likely to produce great bodily harm or death, willfully~~
32 ~~causes or permits any child to suffer, or inflicts thereon~~
33 ~~unjustifiable physical pain or mental suffering, or having the care~~
34 ~~or custody of any child, willfully causes or permits the person or~~
35 ~~health of that child to be injured, or willfully causes or permits~~
36 ~~that child to be placed in a situation where the child's person or~~
37 ~~health may be endangered, is guilty of a misdemeanor.~~

38 ~~(c) If a person is convicted of violating this section and probation~~
39 ~~is granted, the court shall require the following minimum~~
40 ~~conditions of probation:~~

1 (1) A mandatory minimum period of probation of 48 months.

2 (2) A criminal court protective order protecting the victim from
3 further acts of violence or threats, and, if appropriate, residence
4 exclusion or stay-away conditions.

5 (3) Successful completion of no less than one year of a child
6 abuser's treatment counseling program approved by the probation
7 department. The defendant shall be ordered to begin participation
8 in the program immediately upon the grant of probation. The
9 counseling program shall meet the criteria specified in Section
10 273.1. The defendant shall produce documentation of program
11 enrollment to the court within 30 days of enrollment, along with
12 quarterly progress reports.

13 (4) If the offense was committed while the defendant was under
14 the influence of drugs or alcohol, the defendant shall abstain from
15 the use of drugs or alcohol during the period of probation and shall
16 be subject to random drug testing by the defendant's probation
17 officer.

18 (5) The court may waive any of the minimum conditions of
19 probation of this subdivision upon a finding that the condition
20 would not be in the best interests of justice. The court shall state
21 on the record its reasons for any waiver.

22 ~~SEC. 44.~~

23 *SEC. 33.* Section 273d of the Penal Code is amended to read:

24 273d. (a) Any person who willfully inflicts upon a child any
25 cruel or inhuman corporal punishment or an injury resulting in a
26 traumatic condition is guilty of a felony and shall be punished by
27 imprisonment pursuant to subdivision (h) of Section 1170 for two,
28 four, or six years, or in a county jail for not more than one year,
29 by a fine of up to six thousand dollars (\$6,000), or by both that
30 imprisonment and fine.

31 (b) Any person who is found guilty of violating subdivision (a)
32 shall receive a four-year enhancement for a prior conviction of
33 that offense provided that no additional term shall be imposed
34 under this subdivision for any prison term or term imposed under
35 the provisions of subdivision (h) of Section 1170 served prior to
36 a period of 10 years in which the defendant remained free of both
37 the commission of an offense that results in a felony conviction
38 and prison custody or custody in a county jail under the provisions
39 of subdivision (h) of Section 1170.

1 (c) If a person is convicted of violating this section and probation
2 is granted, the court shall require the following minimum
3 conditions of probation:

4 (1) A mandatory minimum period of probation of 36 months.

5 (2) A criminal court protective order protecting the victim from
6 further acts of violence or threats, and, if appropriate, residence
7 exclusion or stay-away conditions.

8 (3) Successful completion of no less than one year of a child
9 abuser's treatment counseling program. The defendant shall be
10 ordered to begin participation in the program immediately upon
11 the grant of probation. The counseling program shall meet the
12 criteria specified in Section 273.1. The defendant shall produce
13 documentation of program enrollment to the court within 30 days
14 of enrollment, along with quarterly progress reports.

15 (4) If the offense was committed while the defendant was under
16 the influence of drugs or alcohol, the defendant shall abstain from
17 the use of drugs or alcohol during the period of probation and shall
18 be subject to random drug testing by the defendant's probation
19 officer.

20 (5) The court may waive any of the minimum conditions of
21 probation specified in this subdivision upon a finding that the
22 condition would not be in the best interests of justice. The court
23 shall state on the record its reasons for any waiver.

24 ~~SEC. 45.~~

25 *SEC. 34.* Section 273.1 of the Penal Code is amended to read:

26 273.1. (a) Any treatment program to which a child abuser
27 convicted of a violation of Section 273a or 273d is referred as a
28 condition of probation shall meet the following criteria:

29 (1) Substantial expertise and experience in the treatment of
30 victims of child abuse and the families in which abuse and violence
31 have occurred.

32 (2) Staff providing direct service are therapists licensed to
33 practice in this state or are under the direct supervision of a
34 therapist licensed to practice in this state.

35 (3) Utilization of a treatment regimen designed to specifically
36 address the offense, including methods of preventing and breaking
37 the cycle of family violence, anger management, and parenting
38 education that focuses, among other things, on means of identifying
39 the developmental and emotional needs of the child.

1 (4) Utilization of group and individual therapy and counseling,
2 with groups no larger than 12 persons.

3 (5) Capability of identifying substance abuse and either treating
4 the abuse or referring the offender to a substance abuse program,
5 to the extent that the court has not already done so.

6 (6) Entry into a written agreement with the defendant that
7 includes an outline of the components of the program, the
8 attendance requirements, a requirement to attend group session
9 free of chemical influence, and a statement that the defendant may
10 be removed from the program if it is determined that the defendant
11 is not benefiting from the program or is disruptive to the program.

12 (7) The program may include, on the recommendation of the
13 treatment counselor, family counseling. However, no child victim
14 shall be compelled or required to participate in the program,
15 including family counseling, and no program may condition a
16 defendant's enrollment on participation by the child victim. The
17 treatment counselor shall privately advise the child victim that
18 their participation is voluntary.

19 (b) If the program finds that the defendant is unsuitable, the
20 program shall immediately contact the probation department or
21 the court. The probation department or court shall either recalendar
22 the case for hearing or refer the defendant to an appropriate
23 alternative child abuser's treatment counseling program.

24 (c) Upon request by the child abuser's treatment counseling
25 program, the court shall provide the defendant's arrest report, prior
26 incidents of violence, and treatment history to the program.

27 (d) The child abuser's treatment counseling program shall
28 provide the probation department and the court with periodic
29 progress reports at least every three months that include attendance,
30 fee payment history, and program compliance. The program shall
31 submit a final evaluation that includes the program's evaluation
32 of the defendant's progress, and recommendation for either
33 successful or unsuccessful termination of the program.

34 ~~SEC. 46. Section 273.6 of the Penal Code is amended to read:~~
35 ~~273.6. (a) Any intentional and knowing violation of a~~
36 ~~protective order, as defined in Section 6218 of the Family Code,~~
37 ~~or of an order issued pursuant to Section 527.6, 527.8, or 527.85~~
38 ~~of the Code of Civil Procedure, or Section 15657.03 of the Welfare~~
39 ~~and Institutions Code, is a misdemeanor punishable by a fine of~~
40 ~~not more than one thousand dollars (\$1,000), or by imprisonment~~

1 in a county jail for not more than one year, or by both that fine and
2 imprisonment.

3 (b) In the event of a violation of subdivision (a) that results in
4 physical injury, the person shall be punished by a fine of not more
5 than two thousand dollars (\$2,000), or by imprisonment in a county
6 jail for not less than 30 days nor more than one year, or by both
7 that fine and imprisonment. However, if the person is imprisoned
8 in a county jail for at least 48 hours, the court may, in the interest
9 of justice and for reasons stated on the record, reduce or eliminate
10 the 30-day minimum imprisonment required by this subdivision.
11 In determining whether to reduce or eliminate the minimum
12 imprisonment pursuant to this subdivision, the court shall consider
13 the seriousness of the facts before the court, whether there are
14 additional allegations of a violation of the order during the
15 pendency of the case before the court, the probability of future
16 violations, the safety of the victim, and whether the defendant has
17 successfully completed or is making progress with counseling.

18 (c) Subdivisions (a) and (b) shall apply to the following court
19 orders:

20 (1) Any order issued pursuant to Section 6320 or 6389 of the
21 Family Code.

22 (2) An order excluding one party from the family dwelling or
23 from the dwelling of the other.

24 (3) An order enjoining a party from specified behavior that the
25 court determined was necessary to effectuate the order described
26 in subdivision (a).

27 (4) Any order issued by another state that is recognized under
28 Part 5 (commencing with Section 6400) of Division 10 of the
29 Family Code.

30 (d) A subsequent conviction for a violation of an order described
31 in subdivision (a), occurring within seven years of a prior
32 conviction for a violation of an order described in subdivision (a)
33 and involving an act of violence or "a credible threat" of violence,
34 as defined in subdivision (c) of Section 139, is punishable by
35 imprisonment in a county jail not to exceed one year, or pursuant
36 to subdivision (h) of Section 1170.

37 (e) In the event of a subsequent conviction for a violation of an
38 order described in subdivision (a) for an act occurring within one
39 year of a prior conviction for a violation of an order described in
40 subdivision (a) that results in physical injury to a victim, the person

1 shall be punished by a fine of not more than two thousand dollars
2 (\$2,000), or by imprisonment in a county jail for not less than six
3 months nor more than one year, by both that fine and
4 imprisonment, or by imprisonment pursuant to subdivision (h) of
5 Section 1170. However, if the person is imprisoned in a county
6 jail for at least 30 days, the court may, in the interest of justice and
7 for reasons stated in the record, reduce or eliminate the six-month
8 minimum imprisonment required by this subdivision. In
9 determining whether to reduce or eliminate the minimum
10 imprisonment pursuant to this subdivision, the court shall consider
11 the seriousness of the facts before the court, whether there are
12 additional allegations of a violation of the order during the
13 pendency of the case before the court, the probability of future
14 violations, the safety of the victim, and whether the defendant has
15 successfully completed or is making progress with counseling.

16 ~~(f) The prosecuting agency of each county shall have the primary~~
17 ~~responsibility for the enforcement of orders described in~~
18 ~~subdivisions (a), (b), (d), and (e).~~

19 ~~(g) (1) Every person who owns, possesses, purchases, or~~
20 ~~receives a firearm knowing the person is prohibited from doing so~~
21 ~~by the provisions of a protective order as defined in Section 136.2~~
22 ~~of this code, Section 6218 of the Family Code, or Section 527.6,~~
23 ~~527.8, or 527.85 of the Code of Civil Procedure, or Section~~
24 ~~15657.03 of the Welfare and Institutions Code, shall be punished~~
25 ~~under Section 29825.~~

26 ~~(2) Every person subject to a protective order described in~~
27 ~~paragraph (1) shall not be prosecuted under this section for owning,~~
28 ~~possessing, purchasing, or receiving a firearm to the extent that~~
29 ~~firearm is granted an exemption pursuant to subdivision (f) of~~
30 ~~Section 527.9 of the Code of Civil Procedure, or subdivision (h)~~
31 ~~of Section 6389 of the Family Code.~~

32 ~~(h) If probation is granted upon conviction of a violation of~~
33 ~~subdivision (a), (b), (c), (d), or (e), the court shall impose probation~~
34 ~~consistent with Section 1203.097, and the conditions of probation~~
35 ~~may include, in lieu of a fine, that the defendant reimburse the~~
36 ~~victim for reasonable costs of counseling and other reasonable~~
37 ~~expenses that the court finds are the direct result of the defendant's~~
38 ~~offense.~~

39 ~~(i) For any order to pay a fine, make payments to a battered~~
40 ~~women's shelter, or pay restitution as a condition of probation~~

1 under subdivision (c), the court shall make a determination of the
2 defendant's ability to pay. In no event shall any order to make
3 payments to a battered women's shelter be made if it would impair
4 the ability of the defendant to pay direct restitution to the victim
5 or court-ordered child support. Where the injury to a married person
6 is caused in whole or in part by the criminal acts of the person's
7 spouse in violation of this section, the community property may
8 not be used to discharge the liability of the offending spouse for
9 restitution to the injured spouse, required by Section 1203.04, as
10 operative on or before August 2, 1995, or Section 1202.4, or to a
11 shelter for costs with regard to the injured spouse and dependents,
12 required by this section, until all separate property of the offending
13 spouse is exhausted.

14 ~~SEC. 47. Section 290.06 of the Penal Code is amended to read:~~
15 ~~290.06. The static SARATSO, as set forth in Section 290.04,~~
16 ~~shall be administered as follows:~~

17 ~~(a) (1) The Department of Corrections and Rehabilitation shall~~
18 ~~assess every eligible person who is incarcerated in state prison.~~
19 ~~Whenever possible, the assessment shall take place at least four~~
20 ~~months, but no sooner than 10 months, prior to release from~~
21 ~~incarceration.~~

22 ~~(2) The department shall assess every eligible person who is on~~
23 ~~parole if the person was not assessed prior to release from state~~
24 ~~prison. Whenever possible, the assessment shall take place at least~~
25 ~~four months, but no sooner than 10 months, prior to termination~~
26 ~~of parole. The department shall record in a database the risk~~
27 ~~assessment scores of persons assessed pursuant to this paragraph~~
28 ~~and paragraph (1), and any risk assessment score that was~~
29 ~~submitted to the department by a probation officer pursuant to~~
30 ~~Section 1203.~~

31 ~~(3) The department shall assess every person on parole~~
32 ~~transferred from any other state or by the federal government to~~
33 ~~this state who has been, or is hereafter convicted in any other court,~~
34 ~~including any state, federal, or military court, of any offense that,~~
35 ~~if committed or attempted in this state, would have been punishable~~
36 ~~as one or more of the offenses described in subdivision (c) of~~
37 ~~Section 290. The assessment required by this paragraph shall occur~~
38 ~~no later than 60 days after a determination by the Department of~~
39 ~~Justice that the person is required to register as a sex offender in~~
40 ~~California pursuant to Section 290.005.~~

1 ~~(4) The State Department of State Hospitals shall assess every~~
2 ~~eligible person who is committed to that department. Whenever~~
3 ~~possible, the assessment shall take place at least four months, but~~
4 ~~no sooner than 10 months, prior to release from commitment. The~~
5 ~~State Department of State Hospitals shall record in a database the~~
6 ~~risk assessment scores of persons assessed pursuant to this~~
7 ~~paragraph and any risk assessment score that was submitted to the~~
8 ~~department by a probation officer pursuant to Section 1203.~~

9 ~~(5) Commencing January 1, 2010, the Department of Corrections~~
10 ~~and Rehabilitation and the State Department of State Hospitals~~
11 ~~shall send the scores obtained in accordance with paragraphs (2),~~
12 ~~(3), and (4) to the Department of Justice not later than 30 days~~
13 ~~after the date of the assessment. The risk assessment score of an~~
14 ~~offender shall be made part of the offender's file maintained by~~
15 ~~the Department of Justice as soon as possible without financial~~
16 ~~impact, but no later than January 1, 2012.~~

17 ~~(6) Each probation department shall, prior to sentencing, assess~~
18 ~~every eligible person as defined in subdivision (c), whether or not~~
19 ~~a report is prepared pursuant to Section 1203.~~

20 ~~(7) Each probation department shall assess every eligible person~~
21 ~~under its supervision who was not assessed pursuant to paragraph~~
22 ~~(6). The assessment shall take place prior to the termination of~~
23 ~~probation, but no later than January 1, 2010.~~

24 ~~(b) Eligible persons not assessed pursuant to subdivision (a)~~
25 ~~may be assessed as follows:~~

26 ~~(1) Upon request of the law enforcement agency in the~~
27 ~~jurisdiction in which the person is registered pursuant to Sections~~
28 ~~290 to 290.023, inclusive, the person shall be assessed. The law~~
29 ~~enforcement agency may enter into a memorandum of~~
30 ~~understanding with a probation department to perform the~~
31 ~~assessment. In the alternative, the law enforcement agency may~~
32 ~~arrange to have personnel trained to perform the risk assessment~~
33 ~~in accordance with subdivision (d) of Section 290.05.~~

34 ~~(2) Eligible persons not assessed pursuant to subdivision (a)~~
35 ~~may request that a risk assessment be performed. A request form~~
36 ~~shall be available at registering law enforcement agencies. The~~
37 ~~risk assessment so requested shall be performed either by the~~
38 ~~probation department, if a memorandum of understanding is~~
39 ~~established between the law enforcement agency and the probation~~

1 department, or by personnel who have been trained to perform risk
2 assessment in accordance with subdivision (d) of Section 290.05.

3 (c) For purposes of this section, "eligible person" means a person
4 who was convicted of an offense that requires the person to register
5 as a sex offender pursuant to the Sex Offender Registration Act
6 and who is eligible for assessment, pursuant to the official Coding
7 Rules designated for use with the risk assessment instrument by
8 the author of any risk assessment instrument (SARATSO) selected
9 by the SARATSO Review Committee.

10 (d) Persons authorized to perform risk assessments pursuant to
11 this section, Section 1203, and Section 706 of the Welfare and
12 Institutions Code shall be immune from liability for good faith
13 conduct under this act.

14 ~~SEC. 48.~~

15 *SEC. 35.* Section 295 of the Penal Code is amended to read:

16 295. (a) This chapter shall be known and may be cited as the
17 DNA and Forensic Identification Database and Data Bank Act of
18 1998, as amended.

19 (b) The people of the State of California set forth all of the
20 following:

21 (1) Deoxyribonucleic acid (DNA) and forensic identification
22 analysis is a useful law enforcement tool for identifying and
23 prosecuting criminal offenders and exonerating the innocent.

24 (2) It is the intent of the people of the State of California, in
25 order to further the purposes of this chapter, to require DNA and
26 forensic identification data bank samples from all persons,
27 including juveniles, for the felony and misdemeanor offenses
28 described in subdivision (a) of Section 296.

29 (3) It is necessary to enact this act defining and governing the
30 state's DNA and forensic identification database and data bank in
31 order to clarify existing law and to enable the state's DNA and
32 Forensic Identification Database and Data Bank Program to become
33 a more effective law enforcement tool.

34 (c) The purpose of the DNA and Forensic Identification
35 Database and Data Bank Program is to assist federal, state, and
36 local criminal justice and law enforcement agencies within and
37 outside California in the expeditious and accurate detection and
38 prosecution of individuals responsible for sex offenses and other
39 crimes, the exclusion of suspects who are being investigated for

1 these crimes, and the identification of missing and unidentified
2 persons, particularly abducted children.

3 (d) Like the collection of fingerprints, the collection of DNA
4 samples pursuant to this chapter is an administrative requirement
5 to assist in the accurate identification of criminal offenders.

6 (e) Unless otherwise requested by the Department of Justice,
7 collection of biological samples for DNA analysis from qualifying
8 persons under this chapter is limited to collection of inner cheek
9 cells of the mouth (buccal swab samples).

10 (f) The Department of Justice DNA Laboratory may obtain
11 through federal, state, or local law enforcement agencies blood
12 specimens from qualifying persons as defined in subdivision (a)
13 of Section 296, and according to procedures set forth in Section
14 298, when it is determined in the discretion of the Department of
15 Justice that such specimens are necessary in a particular case or
16 would aid the department in obtaining an accurate forensic DNA
17 profile for identification purposes.

18 (g) The Department of Justice, through its DNA Laboratory,
19 shall be responsible for the management and administration of the
20 state's DNA and Forensic Identification Database and Data Bank
21 Program and for liaison with the Federal Bureau of Investigation
22 (FBI) regarding the state's participation in a national or
23 international DNA database and data bank program such as the
24 FBI's Combined DNA Index System (CODIS) that allows the
25 storage and exchange of DNA records submitted by state and local
26 forensic DNA laboratories nationwide.

27 (h) The Department of Justice shall be responsible for
28 implementing this chapter.

29 (1) The Department of Justice DNA Laboratory, and the
30 Department of Corrections and Rehabilitation may adopt policies
31 and enact regulations for the implementation of this chapter, as
32 necessary, to give effect to the intent and purpose of this chapter,
33 and to ensure that data bank blood specimens, buccal swab samples,
34 and thumb and palm print impressions as required by this chapter
35 are collected from qualifying persons in a timely manner, as soon
36 as possible after arrest, conviction, or a plea or finding of guilty,
37 no contest, or not guilty by reason of insanity, or upon any
38 disposition rendered in the case of a juvenile who is adjudicated
39 under Section 602 of the Welfare and Institutions Code for
40 commission of any of this chapter's enumerated qualifying

1 offenses, including attempts, or when it is determined that a
2 qualifying person has not given the required specimens, ~~samples~~
3 *samples*, or print impressions. Before adopting any policy or
4 regulation implementing this chapter, the Department of
5 Corrections and Rehabilitation shall seek advice from and consult
6 with the Department of Justice DNA Laboratory Director.

7 (2) Given the specificity of this chapter, and except as provided
8 in subdivision (c) of Section 298.1, any administrative bulletins,
9 notices, regulations, policies, procedures, or guidelines adopted
10 by the Department of Justice and its DNA Laboratory or the
11 Department of Corrections and Rehabilitation for the purpose of
12 ~~the~~ implementing this chapter are exempt from the provisions of
13 the Administrative Procedure Act, Chapter 3.5 (commencing with
14 Section 11340), Chapter 4 (commencing with Section 11370),
15 Chapter 4.5 (commencing with Section 11400), and Chapter 5
16 (commencing with Section 11500) of Part 1 of Division 3 of Title
17 2 of the Government Code.

18 (3) The Department of Corrections and Rehabilitation shall
19 submit copies of any of its policies and regulations with respect
20 to this chapter to the Department of Justice DNA Laboratory
21 Director, and quarterly shall submit to the director written reports
22 updating the director as to the status of its compliance with this
23 chapter.

24 (4) On or before April 1 in the year following adoption of the
25 act that added this paragraph, and quarterly thereafter, the
26 Department of Justice DNA Laboratory shall submit a quarterly
27 report to be published electronically on a Department of Justice
28 internet website and made available for public review. The
29 quarterly report shall state the total number of samples received,
30 the number of ~~samples~~ received from the Department of
31 Corrections and Rehabilitation, the number of samples fully
32 analyzed for inclusion in the CODIS database, and the number of
33 profiles uploaded into the CODIS database for the reporting period.
34 Each quarterly report shall state the total, annual, and quarterly
35 number of qualifying profiles in the Department of Justice DNA
36 Laboratory data bank both from persons and case evidence, and
37 the number of hits and investigations aided, as reported to the
38 National DNA Index System. The quarterly report shall also
39 confirm the laboratory's accreditation status and participation in

1 CODIS and shall include an accounting of the funds collected,
2 expended, and disbursed pursuant to subdivision (k).

3 (5) On or before April 1 in the year following adoption of the
4 act that added this paragraph, and quarterly thereafter, the
5 Department of Corrections and Rehabilitation shall submit a
6 quarterly report to be published electronically on a Department of
7 Corrections and Rehabilitation internet website and made available
8 for public review. The quarterly report shall state the total number
9 of inmates housed in state correctional facilities, including a
10 breakdown of those housed in state prisons, camps, community
11 correctional facilities, and other facilities such as prisoner mother
12 facilities. Each quarterly report shall also state the total, annual,
13 and quarterly number of inmates who have yet to provide
14 specimens, ~~samples~~ *samples*, and print impressions pursuant to
15 this chapter and the number of specimens, ~~samples~~ *samples*, and
16 print impressions that have yet to be forwarded to the Department
17 of Justice DNA Laboratory within 30 days of collection.

18 (i) (1) When the specimens, samples, and print impressions
19 required by this chapter are collected at a county jail or other
20 county facility, including a private community correctional facility,
21 the county sheriff or chief administrative officer of the county jail
22 or other *county* facility shall be responsible for ensuring all of the
23 following:

24 (A) The requisite specimens, samples, and print impressions
25 are collected from qualifying persons immediately following arrest,
26 conviction, or adjudication, or during the booking or intake or
27 reception center process at that facility, or reasonably promptly
28 thereafter.

29 (B) The requisite specimens, samples, and print impressions
30 are collected as soon as administratively practicable after a
31 qualifying person reports to the facility for the purpose of providing
32 specimens, samples, and print impressions.

33 (C) The specimens, samples, and print impressions collected
34 pursuant to this chapter are forwarded immediately to the
35 Department of Justice, and in compliance with department policies.

36 (2) The specimens, samples, and print impressions required by
37 this chapter shall be collected by a person using a collection kit
38 approved by the Department of Justice and in accordance with the
39 requirements and procedures set forth in subdivision (b) of Section
40 298.

1 (3) The counties shall be reimbursed for the costs of obtaining
2 specimens, samples, and print impressions subject to the conditions
3 and limitations set forth by the Department of Justice policies
4 governing reimbursement for collecting specimens, samples, and
5 print impressions pursuant to Section 76104.6 of the Government
6 Code.

7 (j) The trial court may order that the defendant be assessed a
8 reasonable portion of the cost of obtaining specimens, samples,
9 and print impressions in furtherance of this chapter and the funds
10 collected pursuant to this subdivision shall be deposited in the
11 DNA Identification Fund as created by Section 76104.6 of the
12 Government Code.

13 (k) The Department of Justice DNA Laboratory shall be known
14 as the Jan Bashinski DNA Laboratory.

15 ~~SEC. 49. Section 597.3 of the Penal Code is amended to read:~~

16 ~~597.3. (a) Every person who operates a live animal market~~
17 ~~shall do all of the following:~~

18 ~~(1) Provide that no animal will be dismembered, flayed, cut~~
19 ~~open, or have its skin, scales, feathers, or shell removed while the~~
20 ~~animal is still alive.~~

21 ~~(2) Provide that no live animals will be confined, held, or~~
22 ~~displayed in a manner that results, or is likely to result, in injury,~~
23 ~~starvation, dehydration, or suffocation.~~

24 ~~(b) As used in this section:~~

25 ~~(1) "Animal" means frogs, turtles, and birds sold for the purpose~~
26 ~~of human consumption, with the exception of poultry.~~

27 ~~(2) "Live animal market" means a retail food market where, in~~
28 ~~the regular course of business, animals are stored alive and sold~~
29 ~~to consumers for the purpose of human consumption.~~

30 ~~(c) Any person who fails to comply with any requirement of~~
31 ~~subdivision (a) shall for the first violation, be given a written~~
32 ~~warning in a written language that is understood by the person~~
33 ~~receiving the warning. A second or subsequent violation of~~
34 ~~subdivision (a) shall be an infraction, punishable by a fine of not~~
35 ~~less than two hundred fifty dollars (\$250), nor more than one~~
36 ~~thousand dollars (\$1,000). However, a fine paid for a second~~
37 ~~violation of subdivision (a) shall be deferred for six months if a~~
38 ~~course is available that is administered by a state or local agency~~
39 ~~on state law and local ordinances relating to live animal markets.~~

1 ~~If the defendant successfully completes that course within six~~
2 ~~months of entry of judgment, the fine shall be waived.~~

3 ~~SEC. 50.~~

4 *SEC. 36.* Section 670 of the Penal Code is amended to read:

5 670. (a) Any person who violates Section 7158 or 7159 of, or
6 subdivision (b), (c), (d), or (e) of Section 7161 of, the Business
7 and Professions Code or Section 470, 484, 487, or 532 of this code
8 as part of a plan or scheme to defraud an owner or lessee of a
9 residential or nonresidential structure in connection with the offer
10 or performance of repairs to the structure for damage caused by a
11 natural disaster specified in subdivision (b), shall be subject to the
12 penalties and enhancements specified in subdivisions (c) and (d).
13 The existence of any fact which would bring a person under this
14 section shall be alleged in the information or indictment and either
15 admitted by the defendant in open court, or found to be true by the
16 jury trying the issue of guilt or by the court where guilt is
17 established by a plea of guilty or nolo contendere or by trial by
18 the court sitting without a jury.

19 (b) This section applies to natural disasters for which a state of
20 emergency is proclaimed by the Governor pursuant to Section
21 8625 of the Government Code or for which an emergency or major
22 disaster is declared by the President of the United States.

23 (c) The maximum or prescribed amounts of fines for offenses
24 subject to this section shall be doubled. If the person has been
25 previously convicted of a felony offense specified in subdivision
26 (a), the person shall receive a one-year enhancement in addition
27 to, and to run consecutively to, the term of imprisonment for any
28 felony otherwise prescribed by this subdivision.

29 (d) Additionally, the court shall order any person sentenced
30 pursuant to this section to make full restitution to the victim or to
31 make restitution to the victim based on the person's ability to pay,
32 as defined in paragraph (2) of subdivision (b) of Section 27755 of
33 the Government Code. The payment of the restitution ordered by
34 the court pursuant to this subdivision shall be made a condition of
35 any probation granted by the court for an offense punishable under
36 this section. Notwithstanding any other provision of law, the period
37 of probation shall be at least five years or until full restitution is
38 made to the victim, whichever first occurs.

39 (e) Notwithstanding any other provision of law, the prosecuting
40 agency shall be entitled to recover its costs of investigation and

1 prosecution from any fines imposed for a conviction under this
2 section.

3 ~~SEC. 51.~~

4 *SEC. 37.* Section 987 of the Penal Code is amended to read:

5 987. (a) In a noncapital case, if the defendant appears for
6 arraignment without counsel, the defendant shall be informed by
7 the court that it is their right to have counsel before being arraigned,
8 and shall be asked if they desire the assistance of counsel. If the
9 defendant desires and is unable to employ counsel the court shall
10 assign counsel to defend them.

11 (b) In a capital case, if the defendant appears for arraignment
12 without counsel, the court shall inform the defendant that they
13 shall be represented by counsel at all stages of the preliminary and
14 trial proceedings and that the representation is at their expense if
15 they are able to employ counsel or at public expense if they are
16 unable to employ counsel, inquire of them whether they are able
17 to employ counsel and, if so, whether they desire to employ counsel
18 of their choice or to have counsel assigned, and allow them a
19 reasonable time to send for their chosen or assigned counsel. If
20 the defendant is unable to employ counsel, the court shall assign
21 counsel to defend them. If the defendant is able to employ counsel
22 and either refuses to employ counsel or appears without counsel
23 after having had a reasonable time to employ counsel, the court
24 shall assign counsel.

25 The court shall at the first opportunity inform the defendant's
26 trial counsel, whether retained by the defendant or court-appointed,
27 of the additional duties imposed upon trial counsel in any capital
28 case as set forth in paragraph (1) of subdivision (b) of Section
29 1240.1.

30 (c) In order to assist the court in determining whether a
31 defendant is able to employ counsel in any case, the court may
32 require a defendant to file a financial statement or other financial
33 information under penalty of perjury with the court or, in its
34 discretion, order a defendant to appear before a county officer
35 designated by the court to make an inquiry into the ability of the
36 defendant to employ their own counsel. If a county officer is
37 designated, the county officer shall provide to the court a written
38 recommendation and the reason or reasons in support of the
39 recommendation. The determination by the court shall be made
40 on the record. Except as provided in Section 1214, the financial

1 statement or other financial information obtained from the
2 defendant shall be confidential and privileged and shall not be
3 admissible in evidence in any criminal proceeding except the
4 prosecution of an alleged offense of perjury based upon false
5 material contained in the financial statement. The financial
6 statement shall be made available to the prosecution only for
7 purposes of investigation of an alleged offense of perjury based
8 upon false material contained in the financial statement at the
9 conclusion of the proceedings for which the financial statement
10 was required to be submitted.

11 (d) In a capital case, the court may appoint an additional attorney
12 as a cocounsel upon a written request of the first attorney
13 appointed. The request shall be supported by an affidavit of the
14 first attorney setting forth in detail the reasons why a second
15 attorney should be appointed. Any affidavit filed with the court
16 shall be confidential and privileged. The court shall appoint a
17 second attorney when it is convinced by the reasons stated in the
18 affidavit that the appointment is necessary to provide the defendant
19 with effective representation. If the request is denied, the court
20 shall state on the record its reasons for denial of the request.

21 ~~SEC. 52.~~

22 *SEC. 38.* Section 987.2 of the Penal Code is amended to read:

23 987.2. (a) In any case in which a person, including a person
24 who is a minor, desires but is unable to employ counsel, and in
25 which counsel is assigned in the superior court to represent the
26 person in a criminal trial, proceeding, or appeal, the following
27 assigned counsel shall receive a reasonable sum for compensation
28 and for necessary expenses, the amount of which shall be
29 determined by the court, to be paid out of the general fund of the
30 county:

31 (1) In a county or city and county in which there is no public
32 defender.

33 (2) In a county of the first, second, or third class where there is
34 no contract for criminal defense services between the county and
35 one or more responsible attorneys.

36 (3) In a case in which the court finds that, because of a conflict
37 of interest or other reasons, the public defender has properly
38 refused.

39 (4) In a county of the first, second, or third class where attorneys
40 contracted by the county are unable to represent the person accused.

1 (b) The sum provided for in subdivision (a) may be determined
2 by contract between the court and one or more responsible
3 attorneys after consultation with the board of supervisors as to the
4 total amount of compensation and expenses to be paid, which shall
5 be within the amount of funds allocated by the board of supervisors
6 for the cost of assigned counsel in those cases.

7 (c) In counties that utilize an assigned private counsel system
8 as either the primary method of public defense or as the method
9 of appointing counsel in cases where the public defender is
10 unavailable, the county, the courts, or the local county bar
11 association working with the courts are encouraged to do all of
12 the following:

13 (1) Establish panels that shall be open to members of the State
14 Bar of California.

15 (2) Categorize attorneys for panel placement on the basis of
16 experience.

17 (3) Refer cases to panel members on a rotational basis within
18 the level of experience of each panel, except that a judge may
19 exclude an individual attorney from appointment to an individual
20 case for good cause.

21 (4) Seek to educate those panel members through an approved
22 training program.

23 (d) In a county of the first, second, or third class, the court shall
24 first utilize the services of the public defender to provide criminal
25 defense services for indigent defendants. In the event that the public
26 defender is unavailable and the county and the courts have
27 contracted with one or more responsible attorneys or with a panel
28 of attorneys to provide criminal defense services for indigent
29 defendants, the court shall utilize the services of the
30 county-contracted attorneys prior to assigning any other private
31 counsel. Nothing in this subdivision shall be construed to require
32 the appointment of counsel in any case in which the counsel has
33 a conflict of interest. In the interest of justice, a court may depart
34 from that portion of the procedure requiring appointment of a
35 county-contracted attorney after making a finding of good cause
36 and stating the reasons therefor on the record.

37 (e) In a county of the first, second, or third class, the court shall
38 first utilize the services of the public defender to provide criminal
39 defense services for indigent defendants. In the event that the public
40 defender is unavailable and the county has created a second public

1 defender and contracted with one or more responsible attorneys
2 or with a panel of attorneys to provide criminal defense services
3 for indigent defendants, and if the quality of representation
4 provided by the second public defender is comparable to the quality
5 of representation provided by the public defender, the court shall
6 next utilize the services of the second public defender and then
7 the services of the county-contracted attorneys prior to assigning
8 any other private counsel. Nothing in this subdivision shall be
9 construed to require the appointment of counsel in any case in
10 which the counsel has a conflict of interest. In the interest of justice,
11 a court may depart from that portion of the procedure requiring
12 appointment of the second public defender or a county-contracted
13 attorney after making a finding of good cause and stating the
14 reasons therefor on the record.

15 (f) In any case in which counsel is assigned as provided in
16 subdivision (a), that counsel appointed by the court and any
17 court-appointed licensed private investigator shall have the same
18 rights and privileges to information as the public defender and the
19 public defender investigator. It is the intent of the Legislature in
20 enacting this subdivision to equalize any disparity that exists
21 between the ability of private, court-appointed counsel and
22 investigators, and public defenders and public defender
23 investigators, to represent their clients. This subdivision is not
24 intended to grant to private investigators access to any confidential
25 Department of Motor Vehicles' information not otherwise available
26 to them. This subdivision is not intended to extend to private
27 investigators the right to issue subpoenas.

28 (g) Notwithstanding any other provision of this section, where
29 an indigent defendant is first charged in one county and establishes
30 an attorney-client relationship with the public defender, defense
31 services contract attorney, or private attorney, and where the
32 defendant is then charged with an offense in a second or subsequent
33 county, the court in the second or subsequent county may appoint
34 the same counsel as was appointed in the first county to represent
35 the defendant when all of the following conditions are met:

36 (1) The offense charged in the second or subsequent county
37 would be joinable for trial with the offense charged in the first if
38 it took place in the same county, or involves evidence which would
39 be cross-admissible.

1 (2) The court finds that the interests of justice and economy will
2 be best served by unitary representation.

3 (3) Counsel appointed in the first county consents to the
4 appointment.

5 (h) The county may recover costs of public defender services
6 under Chapter 6 (commencing with Section 4750) of Title 5 of
7 Part 3 for any case subject to Section 4750.

8 (i) Counsel shall be appointed to represent, in a misdemeanor
9 case, a person who desires but is unable to employ counsel, when
10 it appears that the appointment is necessary to provide an adequate
11 and effective defense for the defendant. Appointment of counsel
12 in an infraction case is governed by Section 19.6.

13 (j) As used in this section, "county of the first, second, or third
14 class" means the county of the first class, county of the second
15 class, and county of the third class as provided by Sections 28020,
16 28022, 28023, and 28024 of the Government Code.

17 ~~SEC. 53.~~

18 *SEC. 39.* Section 987.4 of the Penal Code is repealed.

19 ~~SEC. 54.~~

20 *SEC. 40.* Section 987.5 of the Penal Code is repealed.

21 ~~SEC. 55.~~

22 *SEC. 41.* Section 987.8 of the Penal Code is repealed.

23 ~~SEC. 56.~~

24 *SEC. 42.* Section 987.81 of the Penal Code is repealed.

25 ~~SEC. 57.~~

26 *SEC. 43.* Section 1000.3 of the Penal Code is amended to read:

27 1000.3. (a) If it appears to the prosecuting attorney, the court,
28 or the probation department that the defendant is performing
29 unsatisfactorily in the assigned program, that the defendant is
30 convicted of an offense that reflects the defendant's propensity for
31 violence, or that the defendant is convicted of a felony, the
32 prosecuting attorney, the court on its own, or the probation
33 department may make a motion for termination from pretrial
34 diversion.

35 (b) After notice to the defendant, the court shall hold a hearing
36 to determine whether pretrial diversion shall be terminated.

37 (c) If the court finds that the defendant is not performing
38 satisfactorily in the assigned program, or the court finds that the
39 defendant has been convicted of a crime as indicated in subdivision

1 (a), the court shall schedule the matter for further proceedings as
2 otherwise provided in this code.

3 (d) If the defendant has completed pretrial diversion, at the end
4 of that period, the criminal charge or charges shall be dismissed.

5 (e) Prior to dismissing the charge or charges or terminating
6 pretrial diversion, the court shall consider the defendant's ability
7 to pay and whether the defendant has paid a diversion restitution
8 fee pursuant to Section 1001.90, if ordered, and has met their
9 financial obligation to the program, if any.

10 ~~SEC. 58.~~

11 ~~SEC. 44.~~ Section 1001.15 of the Penal Code is repealed.

12 ~~SEC. 59.~~

13 ~~SEC. 45.~~ Section 1001.16 of the Penal Code is repealed.

14 ~~SEC. 60.~~

15 ~~SEC. 46.~~ Section 1001.90 of the Penal Code is amended to
16 read:

17 1001.90. (a) For all persons charged with a felony or
18 misdemeanor whose case is diverted by the court pursuant to this
19 title, the court shall impose on the defendant a diversion restitution
20 fee in addition to any other administrative fee provided or imposed
21 under the law. This fee shall not be imposed upon persons whose
22 case is diverted by the court pursuant to Chapter 2.8 (commencing
23 with Section 1001.20).

24 (b) The diversion restitution fee imposed pursuant to this section
25 shall be set at the discretion of the court and shall be commensurate
26 with the seriousness of the offense, but shall not be less than one
27 hundred dollars (\$100), and not more than one thousand dollars
28 (\$1,000).

29 (c) The diversion restitution fee shall be ordered regardless of
30 the defendant's present ability to pay. However, if the court finds
31 that there are compelling and extraordinary reasons, the court may
32 waive imposition of the fee. When the waiver is granted, the court
33 shall state on the record all reasons supporting the waiver. Except
34 as provided in this subdivision, the court shall impose the separate
35 and additional diversion restitution fee required by this section.

36 (d) In setting the amount of the diversion restitution fee in excess
37 of the ~~one hundred dollar~~ *one-hundred-dollar* (\$100) minimum,
38 the court shall consider any relevant factors, including, but not
39 limited to, the defendant's ability to pay, the seriousness and
40 gravity of the offense and the circumstances of its commission,

1 any economic gain derived by the defendant as a result of the
2 crime, and the extent to which any other person suffered any losses
3 as a result of the crime. Those losses may include pecuniary losses
4 to the victim or the victim's dependents as well as intangible losses,
5 such as psychological harm caused by the crime. Consideration
6 of a defendant's ability to pay may include the defendant's future
7 earning capacity. A defendant shall bear the burden of
8 demonstrating the lack of the defendant's ability to pay. Express
9 findings by the court as to the factors bearing on the amount of
10 the fee shall not be required. A separate hearing for the diversion
11 restitution fee shall not be required.

12 (e) The court shall not limit the ability of the state to enforce
13 the fee imposed by this section in the manner of a judgment in a
14 civil action. The court shall not modify the amount of this fee
15 except to correct an error in the setting of the amount of the fee
16 imposed.

17 (f) The fee imposed pursuant to this section shall be immediately
18 deposited in the Restitution Fund for use pursuant to Section 13967
19 of the Government Code.

20 (g) As used in this section, "diversion" also means deferred
21 entry of judgment pursuant to Chapter 2.5 (commencing with
22 Section 1000).

23 ~~SEC. 61.~~

24 *SEC. 47.* Section 1202.4 of the Penal Code is amended to read:

25 1202.4. (a) (1) It is the intent of the Legislature that a victim
26 of crime who incurs an economic loss as a result of the commission
27 of a crime shall receive restitution directly from a defendant
28 convicted of that crime.

29 (2) Upon a person being convicted of a crime in the State of
30 California, the court shall order the defendant to pay a fine in the
31 form of a penalty assessment in accordance with Section 1464.

32 (3) The court, in addition to any other penalty provided or
33 imposed under the law, shall order the defendant to pay both of
34 the following:

35 (A) A restitution fine in accordance with subdivision (b).

36 (B) Restitution to the victim or victims, if any, in accordance
37 with subdivision (f), which shall be enforceable as if the order
38 were a civil judgment.

39 (b) In every case where a person is convicted of a crime, the
40 court shall impose a separate and additional restitution fine, unless

1 it finds compelling and extraordinary reasons for not doing so and
2 states those reasons on the record.

3 (1) The restitution fine shall be set at the discretion of the court
4 and commensurate with the seriousness of the offense. If the person
5 is convicted of a felony, the fine shall not be less than three hundred
6 dollars (\$300) and not more than ten thousand dollars (\$10,000).
7 If the person is convicted of a misdemeanor, the fine shall not be
8 less than one hundred fifty dollars (\$150) and not more than one
9 thousand dollars (\$1,000).

10 (2) In setting a felony restitution fine, the court may determine
11 the amount of the fine as the product of the minimum fine pursuant
12 to paragraph (1) multiplied by the number of years of imprisonment
13 the defendant is ordered to serve, multiplied by the number of
14 felony counts of which the defendant is convicted.

15 (c) The court shall impose the restitution fine unless it finds
16 compelling and extraordinary reasons for not doing so and states
17 those reasons on the record. A defendant's inability to pay shall
18 not be considered a compelling and extraordinary reason not to
19 impose a restitution fine. Inability to pay may be considered only
20 in increasing the amount of the restitution fine in excess of the
21 minimum fine pursuant to paragraph (1) of subdivision (b). The
22 court may specify that funds confiscated at the time of the
23 defendant's arrest, except for funds confiscated pursuant to Chapter
24 8 (commencing with Section 11469) of Division 10 of the Health
25 and Safety Code, be applied to the restitution fine if the funds are
26 not exempt for spousal or child support or subject to any other
27 legal exemption.

28 (d) In setting the amount of the fine pursuant to subdivision (b)
29 in excess of the minimum fine pursuant to paragraph (1) of
30 subdivision (b), the court shall consider any relevant factors,
31 including, but not limited to, the defendant's inability to pay, the
32 seriousness and gravity of the offense and the circumstances of its
33 commission, any economic gain derived by the defendant as a
34 result of the crime, the extent to which any other person suffered
35 losses as a result of the crime, and the number of victims involved
36 in the crime. Those losses may include pecuniary losses to the
37 victim or the victim's dependents as well as intangible losses, such
38 as psychological harm caused by the crime. Consideration of a
39 defendant's inability to pay may include the defendant's future
40 earning capacity. A defendant shall bear the burden of

1 demonstrating the defendant's inability to pay. Express findings
2 by the court as to the factors bearing on the amount of the fine
3 shall not be required. A separate hearing for the fine shall not be
4 required.

5 (e) The restitution fine shall not be subject to penalty
6 assessments authorized in Section 1464 or Chapter 12
7 (commencing with Section 76000) of Title 8 of the Government
8 Code, or the state surcharge authorized in Section 1465.7, and
9 shall be deposited in the Restitution Fund in the State Treasury.

10 (f) Except as provided in subdivisions (p) and (q), in every case
11 in which a victim has suffered economic loss as a result of the
12 defendant's conduct, the court shall require that the defendant
13 make restitution to the victim or victims in an amount established
14 by court order, based on the amount of loss claimed by the victim
15 or victims or any other showing to the court. If the amount of loss
16 cannot be ascertained at the time of sentencing, the restitution
17 order shall include a provision that the amount shall be determined
18 at the direction of the court. The court shall order full restitution.
19 The court may specify that funds confiscated at the time of the
20 defendant's arrest, except for funds confiscated pursuant to Chapter
21 8 (commencing with Section 11469) of Division 10 of the Health
22 and Safety Code, be applied to the restitution order if the funds
23 are not exempt for spousal or child support or subject to any other
24 legal exemption.

25 (1) The defendant has the right to a hearing before a judge to
26 dispute the determination of the amount of restitution. The court
27 may modify the amount, on its own motion or on the motion of
28 the district attorney, the victim or victims, or the defendant. If a
29 motion is made for modification of a restitution order, the victim
30 shall be notified of that motion at least 10 days prior to the
31 proceeding held to decide the motion. A victim at a restitution
32 hearing or modification hearing described in this paragraph may
33 testify by live, two-way audio and video transmission, if testimony
34 by live, two-way audio and video transmission is available at the
35 court.

36 (2) Determination of the amount of restitution ordered pursuant
37 to this subdivision shall not be affected by the indemnification or
38 subrogation rights of a third party. Restitution ordered pursuant to
39 this subdivision shall be ordered to be deposited in the Restitution
40 Fund to the extent that the victim, as defined in subdivision (k),

1 has received assistance from the California Victim Compensation
2 Board pursuant to Chapter 5 (commencing with Section 13950)
3 of Part 4 of Division 3 of Title 2 of the Government Code.

4 (3) To the extent possible, the restitution order shall be prepared
5 by the sentencing court, shall identify each victim and each loss
6 to which it pertains, and shall be of a dollar amount that is sufficient
7 to fully reimburse the victim or victims for every determined
8 economic loss incurred as the result of the defendant's criminal
9 conduct, including, but not limited to, all of the following:

10 (A) Full or partial payment for the value of stolen or damaged
11 property. The value of stolen or damaged property shall be the
12 replacement cost of like property, or the actual cost of repairing
13 the property when repair is possible.

14 (B) Medical expenses.

15 (C) Mental health counseling expenses.

16 (D) Wages or profits lost due to injury incurred by the victim,
17 and if the victim is a minor, wages or profits lost by the minor's
18 parent, parents, guardian, or guardians, while caring for the injured
19 minor. Lost wages shall include commission income as well as
20 base wages. Commission income shall be established by evidence
21 of commission income during the 12-month period prior to the
22 date of the crime for which restitution is being ordered, unless
23 good cause for a shorter time period is shown.

24 (E) Wages or profits lost by the victim, and if the victim is a
25 minor, wages or profits lost by the minor's parent, parents,
26 guardian, or guardians, due to time spent as a witness or in assisting
27 the police or prosecution. Lost wages shall include commission
28 income as well as base wages. Commission income shall be
29 established by evidence of commission income during the
30 12-month period prior to the date of the crime for which restitution
31 is being ordered, unless good cause for a shorter time period is
32 shown.

33 (F) Noneconomic losses, including, but not limited to,
34 psychological harm, for felony violations of Section 288, 288.5,
35 or 288.7.

36 (G) Interest, at the rate of 10 percent per annum, that accrues
37 as of the date of sentencing or loss, as determined by the court.

38 (H) Actual and reasonable attorney's fees and other costs of
39 collection accrued by a private entity on behalf of the victim.

1 (I) Expenses incurred by an adult victim in relocating away
2 from the defendant, including, but not limited to, deposits for
3 utilities and telephone service, deposits for rental housing,
4 temporary lodging and food expenses, clothing, and personal items.
5 Expenses incurred pursuant to this section shall be verified by law
6 enforcement to be necessary for the personal safety of the victim
7 or by a mental health treatment provider to be necessary for the
8 emotional well-being of the victim.

9 (J) Expenses to install or increase residential security incurred
10 related to a violation of Section 273.5, or a violent felony as defined
11 in subdivision (c) of Section 667.5, including, but not limited to,
12 a home security device or system, or replacing or increasing the
13 number of locks.

14 (K) Expenses to retrofit a residence or vehicle, or both, to make
15 the residence accessible to or the vehicle operational by the victim,
16 if the victim is permanently disabled, whether the disability is
17 partial or total, as a direct result of the crime.

18 (L) Expenses for a period of time reasonably necessary to make
19 the victim whole, for the costs to monitor the credit report of, and
20 for the costs to repair the credit of, a victim of identity theft, as
21 defined in Section 530.5.

22 (4) (A) If, as a result of the defendant's conduct, the Restitution
23 Fund has provided assistance to or on behalf of a victim or
24 derivative victim pursuant to Chapter 5 (commencing with Section
25 13950) of Part 4 of Division 3 of Title 2 of the Government Code,
26 the amount of assistance provided shall be presumed to be a direct
27 result of the defendant's criminal conduct and shall be included
28 in the amount of the restitution ordered.

29 (B) The amount of assistance provided by the Restitution Fund
30 shall be established by copies of bills submitted to the California
31 Victim Compensation Board reflecting the amount paid by the
32 board and whether the services for which payment was made were
33 for medical or dental expenses, funeral or burial expenses, mental
34 health counseling, wage or support losses, or rehabilitation.
35 Certified copies of these bills provided by the board and redacted
36 to protect the privacy and safety of the victim or any legal privilege,
37 together with a statement made under penalty of perjury by the
38 custodian of records that those bills were submitted to and were
39 paid by the board, shall be sufficient to meet this requirement.

1 (C) If the defendant offers evidence to rebut the presumption
2 established by this paragraph, the court may release additional
3 information contained in the records of the board to the defendant
4 only after reviewing that information in camera and finding that
5 the information is necessary for the defendant to dispute the amount
6 of the restitution order.

7 (5) Except as provided in paragraph (6), in any case in which
8 an order may be entered pursuant to this subdivision, the defendant
9 shall prepare and file a disclosure identifying all assets, income,
10 and liabilities in which the defendant held or controlled a present
11 or future interest as of the date of the defendant's arrest for the
12 crime for which restitution may be ordered. The financial disclosure
13 statements shall be made available to the victim and the board
14 pursuant to Section 1214. The disclosure shall be signed by the
15 defendant upon a form approved or adopted by the Judicial Council
16 for the purpose of facilitating the disclosure. A defendant who
17 willfully states as true a material matter that the defendant knows
18 to be false on the disclosure required by this subdivision is guilty
19 of a misdemeanor, unless this conduct is punishable as perjury or
20 another provision of law provides for a greater penalty.

21 (6) A defendant who fails to file the financial disclosure required
22 in paragraph (5), but who has filed a financial affidavit or financial
23 information pursuant to subdivision (c) of Section 987, shall be
24 deemed to have waived the confidentiality of that affidavit or
25 financial information as to a victim in whose favor the order of
26 restitution is entered pursuant to subdivision (f). The affidavit or
27 information shall serve in lieu of the financial disclosure required
28 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not
29 apply.

30 (7) Except as provided in paragraph (6), the defendant shall file
31 the disclosure with the clerk of the court no later than the date set
32 for the defendant's sentencing, unless otherwise directed by the
33 court. The disclosure may be inspected or copied as provided by
34 subdivision (b), (c), or (d) of Section 1203.05.

35 (8) In its discretion, the court may relieve the defendant of the
36 duty under paragraph (7) of filing with the clerk by requiring that
37 the defendant's disclosure be submitted as an attachment to, and
38 be available to, those authorized to receive the following:

1 (A) A report submitted pursuant to subparagraph (D) of
2 paragraph (2) of subdivision (b) of Section 1203 or subdivision
3 (g) of Section 1203.

4 (B) A stipulation submitted pursuant to paragraph (4) of
5 subdivision (b) of Section 1203.

6 (C) A report by the probation officer, or information submitted
7 by the defendant applying for a conditional sentence pursuant to
8 subdivision (d) of Section 1203.

9 (9) The court may consider a defendant's unreasonable failure
10 to make a complete disclosure pursuant to paragraph (5) as any of
11 the following:

12 (A) A circumstance in aggravation of the crime in imposing a
13 term under subdivision (b) of Section 1170.

14 (B) A factor indicating that the interests of justice would not be
15 served by admitting the defendant to probation under Section 1203.

16 (C) A factor indicating that the interests of justice would not be
17 served by conditionally sentencing the defendant under Section
18 1203.

19 (D) A factor indicating that the interests of justice would not
20 be served by imposing less than the maximum fine and sentence
21 fixed by law for the case.

22 (10) A defendant's failure or refusal to make the required
23 disclosure pursuant to paragraph (5) shall not delay entry of an
24 order of restitution or pronouncement of sentence. In appropriate
25 cases, the court may do any of the following:

26 (A) Require the defendant to be examined by the district attorney
27 pursuant to subdivision (h).

28 (B) If sentencing the defendant under Section 1170, provide
29 that the victim shall receive a copy of the portion of the probation
30 report filed pursuant to Section 1203.10 concerning the defendant's
31 employment, occupation, finances, and liabilities.

32 (C) If sentencing the defendant under Section 1203, set a date
33 and place for submission of the disclosure required by paragraph
34 (5) as a condition of probation or suspended sentence.

35 (11) If a defendant has any remaining unpaid balance on a
36 restitution order or fine 120 days prior to the defendant's scheduled
37 release from probation or 120 days prior to the defendant's
38 completion of a conditional sentence, the defendant shall prepare
39 and file a new and updated financial disclosure identifying all
40 assets, income, and liabilities in which the defendant holds or

1 controls or has held or controlled a present or future interest during
2 the defendant's period of probation or conditional sentence. The
3 financial disclosure shall be made available to the victim and the
4 board pursuant to Section 1214. The disclosure shall be signed
5 and prepared by the defendant on the same form as described in
6 paragraph (5). A defendant who willfully states as true a material
7 matter that the defendant knows to be false on the disclosure
8 required by this subdivision is guilty of a misdemeanor, unless
9 this conduct is punishable as perjury or another provision of law
10 provides for a greater penalty. The financial disclosure required
11 by this paragraph shall be filed with the clerk of the court no later
12 than 90 days prior to the defendant's scheduled release from
13 probation or completion of the defendant's conditional sentence.

14 (12) In cases where an employer is convicted of a crime against
15 an employee, a payment to the employee or the employee's
16 dependent that is made by the employer's workers' compensation
17 insurance carrier shall not be used to offset the amount of the
18 restitution order unless the court finds that the defendant
19 substantially met the obligation to pay premiums for that insurance
20 coverage.

21 (g) A defendant's inability to pay shall not be a consideration
22 in determining the amount of a restitution order.

23 (h) The district attorney may request an order of examination
24 pursuant to the procedures specified in Article 2 (commencing
25 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part
26 2 of the Code of Civil Procedure, in order to determine the
27 defendant's financial assets for purposes of collecting on the
28 restitution order.

29 (i) A restitution order imposed pursuant to subdivision (f) shall
30 be enforceable as if the order were a civil judgment.

31 (j) The making of a restitution order pursuant to subdivision (f)
32 shall not affect the right of a victim to recovery from the Restitution
33 Fund as otherwise provided by law, except to the extent that
34 restitution is actually collected pursuant to the order. Restitution
35 collected pursuant to this subdivision shall be credited to any other
36 judgments for the same losses obtained against the defendant
37 arising out of the crime for which the defendant was convicted.

38 (k) For purposes of this section, "victim" shall include all of
39 the following:

40 (1) The immediate surviving family of the actual victim.

1 (2) A corporation, business trust, estate, trust, partnership,
2 association, joint venture, government, governmental subdivision,
3 agency, or instrumentality, or any other legal or commercial entity
4 when that entity is a direct victim of a crime.

5 (3) A person who has sustained economic loss as the result of
6 a crime and who satisfies any of the following conditions:

7 (A) At the time of the crime was the parent, grandparent, sibling,
8 spouse, child, or grandchild of the victim.

9 (B) At the time of the crime was living in the household of the
10 victim.

11 (C) At the time of the crime was a person who had previously
12 lived in the household of the victim for a period of not less than
13 two years in a relationship substantially similar to a relationship
14 listed in subparagraph (A).

15 (D) Is another family member of the victim, including, but not
16 limited to, the victim's ~~fiancé or fiancée~~, *fiance*, and who witnessed
17 the crime.

18 (E) Is the primary caretaker of a minor victim.

19 (4) A person who is eligible to receive assistance from the
20 Restitution Fund pursuant to Chapter 5 (commencing with Section
21 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

22 (5) A governmental entity that is responsible for repairing,
23 replacing, or restoring public or privately owned property that has
24 been defaced with graffiti or other inscribed material, as defined
25 in subdivision (e) of Section 594, and that has sustained an
26 economic loss as the result of a violation of Section 594, 594.3,
27 594.4, 640.5, 640.6, or 640.7.

28 (l) In every case in which the defendant is granted probation,
29 the court shall make the payment of restitution fines and orders
30 imposed pursuant to this section a condition of probation. Any
31 portion of a restitution order that remains unsatisfied after a
32 defendant is no longer on probation shall continue to be enforceable
33 by a victim pursuant to Section 1214 until the obligation is
34 satisfied.

35 (m) If the court finds and states on the record compelling and
36 extraordinary reasons why a restitution fine should not be required,
37 the court shall order, as a condition of probation, that the defendant
38 perform specified community service, unless it finds and states on
39 the record compelling and extraordinary reasons not to require
40 community service in addition to the finding that a restitution fine

1 should not be required. Upon revocation of probation, the court
2 shall impose the restitution fine pursuant to this section.

3 (n) The provisions of Section 13963 of the Government Code
4 shall apply to restitution imposed pursuant to this section.

5 (o) The court clerk shall notify the California Victim
6 Compensation and Government Claims Board within 90 days of
7 an order of restitution being imposed if the defendant is ordered
8 to pay restitution to the board due to the victim receiving
9 compensation from the Restitution Fund. Notification shall be
10 accomplished by mailing a copy of the court order to the board,
11 which may be done periodically by bulk mail or email.

12 (p) Upon conviction for a violation of Section 236.1, the court
13 shall, in addition to any other penalty or restitution, order the
14 defendant to pay restitution to the victim in a case in which a victim
15 has suffered economic loss as a result of the defendant's conduct.
16 The court shall require that the defendant make restitution to the
17 victim or victims in an amount established by court order, based
18 on the amount of loss claimed by the victim or victims or another
19 showing to the court. In determining restitution pursuant to this
20 section, the court shall base its order upon the greater of the
21 following: the gross value of the victim's labor or services based
22 upon the comparable value of similar services in the labor market
23 in which the offense occurred, or the value of the victim's labor
24 as guaranteed under California law, or the actual income derived
25 by the defendant from the victim's labor or services or any other
26 appropriate means to provide reparations to the victim.

27 (q) (1) In addition to any other penalty or fine, the court shall
28 order a person who has been convicted of a violation of Section
29 350, 653h, 653s, 653u, 653w, or 653aa that involves a recording
30 or audiovisual work to make restitution to an owner or lawful
31 producer, or trade association acting on behalf of the owner or
32 lawful producer, of a phonograph record, disc, wire, tape, film, or
33 other device or article from which sounds or visual images are
34 derived that suffered economic loss resulting from the violation.
35 The order of restitution shall be based on the aggregate wholesale
36 value of lawfully manufactured and authorized devices or articles
37 from which sounds or visual images are devised corresponding to
38 the number of nonconforming devices or articles involved in the
39 offense, unless a higher value can be proved in the case of (A) an
40 unreleased audio work, or (B) an audiovisual work that, at the time

1 of unauthorized distribution, has not been made available in copies
2 for sale to the general public in the United States on a digital
3 versatile disc. For purposes of this subdivision, possession of
4 nonconforming devices or articles intended for sale constitutes
5 actual economic loss to an owner or lawful producer in the form
6 of displaced legitimate wholesale purchases. The order of
7 restitution shall also include reasonable costs incurred as a result
8 of an investigation of the violation undertaken by the owner, lawful
9 producer, or trade association acting on behalf of the owner or
10 lawful producer. "Aggregate wholesale value" means the average
11 wholesale value of lawfully manufactured and authorized sound
12 or audiovisual recordings. Proof of the specific wholesale value
13 of each nonconforming device or article is not required.

14 (2) As used in this subdivision, "audiovisual work" and
15 "recording" shall have the same meaning as in Section 653w.

16 ~~SEC. 62.~~

17 *SEC. 48.* Section 1202.42 of the Penal Code is amended to
18 read:

19 1202.42. Upon entry of a restitution order under subdivision
20 (c) of Section 13967 of the Government Code, as operative on or
21 before September 28, 1994, paragraph (3) of subdivision (a) of
22 Section 1202.4 of this code, or Section 1203.04 as operative on or
23 before August 2, 1995, the following shall apply:

24 (a) The court shall enter a separate order for income deduction
25 upon determination of the defendant's ability to pay, regardless
26 of the probation status, in accordance with Section 1203.
27 Determination of a defendant's ability to pay may include the
28 defendant's future earning capacity. A defendant shall bear the
29 burden of demonstrating lack of the defendant's ability to pay.
30 Express findings by the court as to the factors bearing on the
31 amount of the fine shall not be required.

32 (b) (1) In any case in which the court enters a separate order
33 for income deduction under this section, the order shall be stayed
34 until the agency in the county responsible for collection of
35 restitution determines that the defendant has failed to meet the
36 defendant's obligation under the restitution order and the defendant
37 has not provided the agency with good cause for the failure in
38 accordance with paragraph (2).

39 (2) If the agency responsible for collection of restitution receives
40 information that the defendant has failed to meet the defendant's

1 obligation under the restitution order, the agency shall request the
2 defendant to provide evidence indicating that timely payments
3 have been made or provide information establishing good cause
4 for the failure. If the defendant fails to either provide the agency
5 with the evidence or fails to establish good cause within five days
6 of the request, the agency shall immediately inform the defendant
7 of that fact, and shall inform the clerk of the court in order that an
8 income deduction order will be served pursuant to subdivision (f)
9 following a 15-day appeal period. The defendant may apply for a
10 hearing to contest the lifting of the stay pursuant to subdivision
11 (f).

12 (c) The income deduction order shall direct a payer to deduct
13 from all income due and payable to the defendant the amount
14 required by the court to meet the defendant's obligation.

15 (d) The income deduction order shall be effective so long as the
16 order for restitution upon which it is based is effective or until
17 further order of the court.

18 (e) When the court orders the income deduction, the court shall
19 furnish to the defendant a statement of the defendant's rights,
20 remedies, and duties in regard to the income deduction order. The
21 statement shall state all of the following:

22 (1) The total amount of income to be deducted for each pay
23 period.

24 (2) That the income deduction order applies to current and
25 subsequent payers and periods of employment.

26 (3) That a copy of the income deduction order will be served
27 on the defendant's payer or payers.

28 (4) That enforcement of the income deduction order may only
29 be contested on the ground of mistake of fact regarding the amount
30 of restitution owed.

31 (5) That the defendant is required to notify the clerk of the court
32 within seven days after changes in the defendant's address, payers,
33 and the addresses of the defendant's payers.

34 (6) That the court order will be stayed in accordance with
35 subdivision (b) and that a hearing is available in accordance with
36 subdivision (f).

37 (f) (1) Upon receiving the notice described in paragraph (2) of
38 subdivision (b), the clerk of the court or officer of the agency
39 responsible for collection of restitution shall serve an income
40 deduction order and the notice to payer on the defendant's payer

1 unless the defendant has applied for a hearing to contest the
2 enforcement of the income deduction order.

3 (2) (A) Service by or upon any person who is a party to a
4 proceeding under this section shall be made in the manner
5 prescribed for service upon parties in a civil action.

6 (B) Service upon the defendant's payer or successor payer under
7 this section shall be made by prepaid certified mail, return receipt
8 requested.

9 (3) The defendant, within 15 days after being informed that the
10 order staying the income deduction order will be lifted, may apply
11 for a hearing to contest the enforcement of the income deduction
12 order on the ground of mistake of fact regarding the amount of
13 restitution owed or on the ground that the defendant has established
14 good cause for the nonpayment. The timely request for a hearing
15 shall stay the service of an income deduction order on all payers
16 of the defendant until a hearing is held and a determination is made
17 as to whether the enforcement of the income deduction order is
18 proper.

19 (4) The notice to any payer required by this subdivision shall
20 contain only information necessary for the payer to comply with
21 the income deduction order. The notice shall do all of the
22 following:

23 (A) Require the payer to deduct from the defendant's income
24 the amount specified in the income deduction order, and to pay
25 that amount to the clerk of the court.

26 (B) Instruct the payer to implement the income deduction order
27 no later than the first payment date that occurs more than 14 days
28 after the date the income deduction order was served on the payer.

29 (C) Instruct the payer to forward, within two days after each
30 payment date, to the clerk of the court the amount deducted from
31 the defendant's income and a statement as to whether the amount
32 totally or partially satisfies the periodic amount specified in the
33 income deduction order.

34 (D) Specify that if a payer fails to deduct the proper amount
35 from the defendant's income, the payer is liable for the amount
36 the payer should have deducted, plus costs, interest, and reasonable
37 attorney's fees.

38 (E) State that the income deduction order and the notice to payer
39 are binding on the payer until further notice by the court or until
40 the payer no longer provides income to the defendant.

1 (F) Instruct the payer that, when the payer no longer provides
2 income to the defendant, the payer shall notify the clerk of the
3 court and shall also provide the defendant's last known address
4 and the name and address of the defendant's new payer, if known,
5 and that, if the payer violates this provision, the payer is subject
6 to a civil penalty not to exceed two hundred fifty dollars (\$250)
7 for the first violation or five hundred dollars (\$500) for any
8 subsequent violation.

9 (G) State that the payer shall not discharge, refuse to employ,
10 or take disciplinary action against the defendant because of an
11 income deduction order and shall state that a violation of this
12 provision subjects the payer to a civil penalty not to exceed two
13 hundred fifty dollars (\$250) for the first violation or five hundred
14 dollars (\$500) for any subsequent violation.

15 (H) Inform the payer that when the payer receives income
16 deduction orders requiring that the income of two or more
17 defendants be deducted and sent to the same clerk of a court, the
18 payer may combine the amounts that are to be paid to the
19 depository in a single payment as long as the payer identifies that
20 portion of the payment attributable to each defendant.

21 (I) Inform the payer that if the payer receives more than one
22 income deduction order against the same defendant, the payer shall
23 contact the court for further instructions.

24 (5) The clerk of the court shall enforce income deduction orders
25 against the defendant's successor payer who is located in this state
26 in the same manner prescribed in this subdivision for the
27 enforcement of an income deduction order against a payer.

28 (6) A person may not discharge, refuse to employ, or take
29 disciplinary action against an employee because of the enforcement
30 of an income deduction order. An employer who violates this
31 provision is subject to a civil penalty not to exceed two hundred
32 fifty dollars (\$250) for the first violation or five hundred dollars
33 (\$500) for any subsequent violation.

34 (7) When a payer no longer provides income to a defendant,
35 the payer shall notify the clerk of the court and shall provide the
36 defendant's last known address and the name and address of the
37 defendant's new payer, if known. A payer who violates this
38 provision is subject to a civil penalty not to exceed two hundred
39 fifty dollars (\$250) for the first violation or five hundred dollars
40 (\$500) for a subsequent violation.

1 (g) If the defendant has failed to meet the defendant's obligation
2 under the restitution order and the defendant has not provided good
3 cause for the failure in accordance with the process set forth in
4 paragraph (2) of subdivision (b), the court may, upon the request
5 of the prosecuting attorney, order that the prosecuting attorney be
6 given authority to use lien procedures applicable to the defendant,
7 including, but not limited to, a writ of attachment of property. This
8 authority is in addition to any authority granted to the prosecuting
9 attorney in subdivision (h).

10 (1) If the court authorizes a lien or other similar encumbrance
11 on real property pursuant to this subdivision, the court shall, within
12 15 days, furnish to the defendant a statement of the defendant's
13 rights, remedies, and duties in regard to the order. The statement
14 shall state all of the following:

15 (A) That the lien is enforceable and collectible by execution
16 issued by order of the court, except that a lien shall not be enforced
17 by writ of execution on a defendant's principal place of residence.

18 (B) A legal description of the property to be encumbered.

19 (C) The total amount of restitution still owed by the defendant.

20 (D) That enforcement of the lien order may only be contested
21 on the ground of mistake of fact regarding the amount of restitution
22 owed or on the ground of mistake of fact regarding the defendant's
23 ownership interest of the property to be encumbered.

24 (E) That a hearing is available in accordance with paragraph
25 (2).

26 (F) That, upon paying the restitution order in full, the defendant
27 may petition the court for a full release of any related encumbrance
28 in accordance with paragraph (3).

29 (2) The defendant, within 15 days after being informed that a
30 lien or other similar encumbrance on real property has been
31 ordered, may apply for a hearing to contest the enforcement order
32 on the ground of mistake of fact regarding the amount of restitution
33 owed, on the ground of mistake of fact regarding the defendant's
34 ownership interest of the property to be encumbered, or on the
35 ground that the defendant has established good cause for the
36 nonpayment. The timely request for a hearing shall stay any
37 execution on the lien until a hearing is held and a determination
38 is made as to whether the enforcement order is proper.

39 (3) Upon payment of the restitution order in full, the defendant
40 may petition the court to issue an order directing the clerk of the

1 court to execute a full reconveyance of title, a certificate of
2 discharge, or a full release of any lien against real property created
3 to secure performance of the restitution order.

4 (4) Neither a prosecutorial agency nor a prosecuting attorney
5 shall be liable for an injury caused by an act or omission in
6 exercising the authority granted by this subdivision.

7 (h) If there is no agency in the county responsible for the
8 collection of restitution, the county probation office or the
9 prosecuting attorney may carry out the functions and duties of
10 such an agency as specified in subdivisions (b) and (f).

11 (i) A prosecuting attorney shall not make any collection against,
12 or take any percentage of, the defendant's income or assets to
13 reimburse the prosecuting attorney for administrative costs in
14 carrying out any action authorized by this section.

15 (j) As used in this section, "good cause" for failure to meet an
16 obligation or "good cause" for nonpayment means, but shall not
17 be limited to, any of the following:

18 (1) That there has been a substantial change in the defendant's
19 economic circumstances, such as involuntary unemployment,
20 involuntary cost-of-living increases, or costs incurred as the result
21 of medical circumstances or a natural disaster.

22 (2) That the defendant reasonably believes there has been an
23 administrative error with regard to the defendant's obligation for
24 payment.

25 (3) Any other similar and justifiable reasons.

26 ~~SEC. 63.~~

27 *SEC. 49.* Section 1203 of the Penal Code is amended to read:

28 1203. (a) As used in this code, "probation" means the
29 suspension of the imposition or execution of a sentence and the
30 order of conditional and revocable release in the community under
31 the supervision of a probation officer. As used in this code,
32 "conditional sentence" means the suspension of the imposition or
33 execution of a sentence and the order of revocable release in the
34 community subject to conditions established by the court without
35 the supervision of a probation officer. It is the intent of the
36 Legislature that both conditional sentence and probation are
37 authorized whenever probation is authorized in any code as a
38 sentencing option for infractions or misdemeanors.

39 (b) (1) Except as provided in subdivision (j), if a person is
40 convicted of a felony and is eligible for probation, before judgment

1 is pronounced, the court shall immediately refer the matter to a
2 probation officer to investigate and report to the court, at a specified
3 time, upon the circumstances surrounding the crime and the prior
4 history and record of the person, which may be considered either
5 in aggravation or mitigation of the punishment.

6 (2) (A) The probation officer shall immediately investigate and
7 make a written report to the court of the officer's findings and
8 recommendations, including the officer's recommendations as to
9 the granting or denying of probation and the conditions of
10 probation, if granted.

11 (B) Pursuant to Section 828 of the Welfare and Institutions
12 Code, the probation officer shall include in the officer's report any
13 information gathered by a law enforcement agency relating to the
14 taking of the defendant into custody as a minor, which shall be
15 considered for purposes of determining whether adjudications of
16 commissions of crimes as a juvenile warrant a finding that there
17 are circumstances in aggravation pursuant to Section 1170 or to
18 deny probation.

19 (C) If the person was convicted of an offense that requires the
20 person to register as a sex offender pursuant to Sections 290 to
21 290.023, inclusive, or if the probation report recommends that
22 registration be ordered at sentencing pursuant to Section 290.006,
23 the probation officer's report shall include the results of the
24 State-Authorized Risk Assessment Tool for Sex Offenders
25 (SARATSO) administered pursuant to Sections 290.04 to 290.06,
26 inclusive, if applicable.

27 (D) The probation officer may also include in the report the
28 officer's recommendation of both of the following:

29 (i) The amount the defendant should be required to pay as a
30 restitution fine pursuant to subdivision (b) of Section 1202.4.

31 (ii) Whether the court shall require, as a condition of probation,
32 restitution to the victim or to the Restitution Fund and the amount
33 thereof.

34 (E) The report shall be made available to the court and the
35 prosecuting and defense attorneys at least five days, or upon request
36 of the defendant or prosecuting attorney nine days, prior to the
37 time fixed by the court for the hearing and determination of the
38 report, and shall be filed with the clerk of the court as a record in
39 the case at the time of the hearing. The time within which the report
40 shall be made available and filed may be waived by written

1 stipulation of the prosecuting and defense attorneys that is filed
2 with the court or an oral stipulation in open court that is made and
3 entered upon the minutes of the court.

4 (3) At a time fixed by the court, the court shall hear and
5 determine the application, if one has been made, or, in any case,
6 the suitability of probation in the particular case. At the hearing,
7 the court shall consider any report of the probation officer,
8 including the results of the SARATSO, if applicable, and shall
9 make a statement that it has considered the report, which shall be
10 filed with the clerk of the court as a record in the case. If the court
11 determines that there are circumstances in mitigation of the
12 punishment prescribed by law or that the ends of justice would be
13 served by granting probation to the person, it may place the person
14 on probation. If probation is denied, the clerk of the court shall
15 immediately send a copy of the report to the Department of
16 Corrections and Rehabilitation at the prison or other institution to
17 which the person is delivered.

18 (4) The preparation of the report or the consideration of the
19 report by the court may be waived only by a written stipulation of
20 the prosecuting and defense attorneys that is filed with the court
21 or an oral stipulation in open court that is made and entered upon
22 the minutes of the court, except that a waiver shall not be allowed
23 unless the court consents thereto. However, if the defendant is
24 ultimately sentenced and committed to the state prison, a probation
25 report shall be completed pursuant to Section 1203c.

26 (c) If a defendant is not represented by an attorney, the court
27 shall order the probation officer who makes the probation report
28 to discuss its contents with the defendant.

29 (d) If a person is convicted of a misdemeanor, the court may
30 either refer the matter to the probation officer for an investigation
31 and a report or summarily pronounce a conditional sentence. If
32 the person was convicted of an offense that requires the person to
33 register as a sex offender pursuant to Sections 290 to 290.023,
34 inclusive, or if the probation officer recommends that the court,
35 at sentencing, order the offender to register as a sex offender
36 pursuant to Section 290.006, the court shall refer the matter to the
37 probation officer for the purpose of obtaining a report on the results
38 of the State-Authorized Risk Assessment Tool for Sex Offenders
39 administered pursuant to Sections 290.04 to 290.06, inclusive, if
40 applicable, which the court shall consider. If the case is not referred

1 to the probation officer, in sentencing the person, the court may
2 consider any information concerning the person that could have
3 been included in a probation report. The court shall inform the
4 person of the information to be considered and permit the person
5 to answer or controvert the information. For this purpose, upon
6 the request of the person, the court shall grant a continuance before
7 the judgment is pronounced.

8 (e) Except in unusual cases where the interests of justice would
9 best be served if the person is granted probation, probation shall
10 not be granted to any of the following persons:

11 (1) Unless the person had a lawful right to carry a deadly
12 weapon, other than a firearm, at the time of the perpetration of the
13 crime or arrest, any person who has been convicted of arson,
14 robbery, carjacking, burglary, burglary with explosives, rape with
15 force or violence, torture, aggravated mayhem, murder, attempt
16 to commit murder, trainwrecking, kidnapping, escape from the
17 state prison, or a conspiracy to commit one or more of those crimes
18 and who was armed with the weapon at either of those times.

19 (2) Any person who used, or attempted to use, a deadly weapon
20 upon a human being in connection with the perpetration of the
21 crime of which the person has been convicted.

22 (3) Any person who willfully inflicted great bodily injury or
23 torture in the perpetration of the crime of which the person has
24 been convicted.

25 (4) Any person who has been previously convicted twice in this
26 state of a felony or in any other place of a public offense which,
27 if committed in this state, would have been punishable as a felony.

28 (5) Unless the person has never been previously convicted once
29 in this state of a felony or in any other place of a public offense
30 which, if committed in this state, would have been punishable as
31 a felony, any person who has been convicted of burglary with
32 explosives, rape with force or violence, torture, aggravated
33 mayhem, murder, attempt to commit murder, trainwrecking,
34 extortion, kidnapping, escape from the state prison, a violation of
35 Section 286, 287, 288, or 288.5, or of former Section 288a, or a
36 conspiracy to commit one or more of those crimes.

37 (6) Any person who has been previously convicted once in this
38 state of a felony or in any other place of a public offense which,
39 if committed in this state, would have been punishable as a felony,
40 if the person committed any of the following acts:

1 (A) Unless the person had a lawful right to carry a deadly
2 weapon at the time of the perpetration of the previous crime or
3 arrest for the previous crime, the person was armed with a weapon
4 at either of those times.

5 (B) The person used, or attempted to use, a deadly weapon upon
6 a human being in connection with the perpetration of the previous
7 crime.

8 (C) The person willfully inflicted great bodily injury or torture
9 in the perpetration of the previous crime.

10 (7) Any public official or peace officer of this state or any city,
11 county, or other political subdivision who, in the discharge of the
12 duties of their public office or employment, accepted or gave or
13 offered to accept or give any bribe, embezzled public money, or
14 was guilty of extortion.

15 (8) Any person who knowingly furnishes or gives away
16 phencyclidine.

17 (9) Any person who intentionally inflicted great bodily injury
18 in the commission of arson under subdivision (a) of Section 451
19 or who intentionally set fire to, burned, or caused the burning of,
20 an inhabited structure or inhabited property in violation of
21 subdivision (b) of Section 451.

22 (10) Any person who, in the commission of a felony, inflicts
23 great bodily injury or causes the death of a human being by the
24 discharge of a firearm from or at an occupied motor vehicle
25 proceeding on a public street or highway.

26 (11) Any person who possesses a short-barreled rifle or a
27 short-barreled shotgun under Section 33215, a machinegun under
28 Section 32625, or a silencer under Section 33410.

29 (12) Any person who is convicted of violating Section 8101 of
30 the Welfare and Institutions Code.

31 (13) Any person who is described in subdivision (b) or (c) of
32 Section 27590.

33 (f) When probation is granted in a case which comes within
34 subdivision (e), the court shall specify on the record and shall enter
35 on the minutes the circumstances indicating that the interests of
36 justice would best be served by that disposition.

37 (g) If a person is not eligible for probation, the judge shall refer
38 the matter to the probation officer for an investigation of the facts
39 relevant to determination of the amount of a restitution fine
40 pursuant to subdivision (b) of Section 1202.4 in all cases where

1 the determination is applicable. The judge, in the judge's discretion,
2 may direct the probation officer to investigate all facts relevant to
3 the sentencing of the person. Upon that referral, the probation
4 officer shall immediately investigate the circumstances surrounding
5 the crime and the prior record and history of the person and make
6 a written report to the court of the officer's findings. The findings
7 shall include a recommendation of the amount of the restitution
8 fine as provided in subdivision (b) of Section 1202.4.

9 (h) If a defendant is convicted of a felony and a probation report
10 is prepared pursuant to subdivision (b) or (g), the probation officer
11 may obtain and include in the report a statement of the comments
12 of the victim concerning the offense. The court may direct the
13 probation officer not to obtain a statement if the victim has in fact
14 testified at any of the court proceedings concerning the offense.

15 (i) A probationer shall not be released to enter another state
16 unless the probationer's case has been referred to the Administrator
17 of the Interstate Probation and Parole Compacts, pursuant to the
18 Uniform Act for Out-of-State Probationer or Parolee Supervision
19 (Article 3 (commencing with Section 11175) of Chapter 2 of Title
20 1 of Part 4).

21 (j) In any court where a county financial evaluation officer is
22 available, in addition to referring the matter to the probation officer,
23 the court may order the defendant to appear before the county
24 financial evaluation officer for a financial evaluation of the
25 defendant's ability to pay restitution, in which case the county
26 financial evaluation officer shall report the county financial
27 evaluation officer's findings regarding restitution to the probation
28 officer on the question of the defendant's ability to pay restitution.

29 Any order made pursuant to this subdivision may be enforced
30 as a violation of the terms and conditions of probation upon willful
31 failure to pay and at the discretion of the court, may be enforced
32 in the same manner as a judgment in a civil action, if any balance
33 remains unpaid at the end of the defendant's probationary period.

34 (k) Probation shall not be granted to, nor shall the execution of,
35 or imposition of sentence be suspended for, any person who is
36 convicted of a violent felony, as defined in subdivision (c) of
37 Section 667.5, or a serious felony, as defined in subdivision (c) of
38 Section 1192.7, and who was on probation for a felony offense at
39 the time of the commission of the new felony offense.

1 (l) For any person granted probation prior to January 1, 2021,
2 at the time the court imposes probation, the court may take a waiver
3 from the defendant permitting flash incarceration by the probation
4 officer, pursuant to Section 1203.35.

5 ~~SEC. 64.~~

6 SEC. 50. Section 1203.016 of the Penal Code is amended to
7 read:

8 1203.016. (a) Notwithstanding any other law, the board of
9 supervisors of any county may authorize the correctional
10 administrator, as defined in subdivision (g), to offer a program
11 under which inmates committed to a county jail or other county
12 correctional facility or granted probation, or inmates participating
13 in a work furlough program, may voluntarily participate or
14 involuntarily be placed in a home detention program during their
15 sentence in lieu of confinement in a county jail or other county
16 correctional facility or program under the auspices of the probation
17 officer.

18 (b) The board of supervisors, in consultation with the
19 correctional administrator, may prescribe reasonable rules and
20 regulations under which a home detention program may operate.
21 As a condition of participation in the home detention program, the
22 inmate shall give consent in writing to participate in the home
23 detention program and shall in writing agree to comply or, for
24 involuntary participation, the inmate shall be informed in writing
25 that the inmate shall comply, with the rules and regulations of the
26 program, including, but not limited to, the following rules:

27 (1) The participant shall remain within the interior premises of
28 the participant's residence during the hours designated by the
29 correctional administrator.

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

34 (3) The participant shall agree to the use of electronic
35 monitoring, which may include Global Positioning System devices
36 or other supervising devices for the purpose of helping to verify
37 compliance with the rules and regulations of the home detention
38 program. The devices shall not be used to eavesdrop or record any
39 conversation, except a conversation between the participant and

1 the person supervising the participant which is to be used solely
2 for the purposes of voice identification.

3 (4) The participant shall agree that the correctional administrator
4 in charge of the county correctional facility from which the
5 participant was released may, without further order of the court,
6 immediately retake the person into custody to serve the balance
7 of the person's sentence if the electronic monitoring or supervising
8 devices are unable for any reason to properly perform their function
9 at the designated place of home detention, if the person fails to
10 remain within the place of home detention as stipulated in the
11 agreement, or if the person for any other reason no longer meets
12 the established criteria under this section. A copy of the agreement
13 shall be delivered to the participant and a copy retained by the
14 correctional administrator.

15 (c) If the peace officer supervising a participant has reasonable
16 cause to believe that the participant is not complying with the rules
17 or conditions of the program, or that the electronic monitoring
18 devices are unable to function properly in the designated place of
19 confinement, the peace officer may, under general or specific
20 authorization of the correctional administrator, and without a
21 warrant of arrest, retake the person into custody to complete the
22 remainder of the original sentence.

23 (d) Nothing in this section shall be construed to require the
24 correctional administrator to allow a person to participate in this
25 program if it appears from the record that the person has not
26 satisfactorily complied with reasonable rules and regulations while
27 in custody. A person shall be eligible for participation in a home
28 detention program only if the correctional administrator concludes
29 that the person meets the criteria for release established under this
30 section and that the person's participation is consistent with any
31 reasonable rules and regulations prescribed by the board of
32 supervisors or the administrative policy of the correctional
33 administrator.

34 (1) The rules and regulations and administrative policy of the
35 program shall be written and reviewed on an annual basis by the
36 county board of supervisors and the correctional administrator.
37 The rules and regulations shall be given to or made available to
38 any participant upon request.

39 (2) The correctional administrator, or the administrator's
40 designee, shall have the sole discretionary authority to permit

1 program participation as an alternative to physical custody. All
2 persons referred or recommended by the court to participate in the
3 home detention program pursuant to subdivision (e) who are denied
4 participation or all persons removed from program participation
5 shall be notified in writing of the specific reasons for the denial
6 or removal. The notice of denial or removal shall include the
7 participant's appeal rights, as established by program administrative
8 policy.

9 (e) The court may recommend or refer a person to the
10 correctional administrator for consideration for placement in the
11 home detention program. The recommendation or referral of the
12 court shall be given great weight in the determination of acceptance
13 or denial. At the time of sentencing or at any time that the court
14 deems it necessary, the court may restrict or deny the defendant's
15 participation in a home detention program.

16 (f) The correctional administrator may permit home detention
17 program participants to seek and retain employment in the
18 community, attend psychological counseling sessions or
19 educational or vocational training classes, or seek medical and
20 dental assistance. Willful failure of the program participant to
21 return to the place of home detention not later than the expiration
22 of any period of time during which the participant is authorized
23 to be away from the place of home detention pursuant to this
24 section and unauthorized departures from the place of home
25 detention are punishable as provided in Section 4532.

26 (g) As used in this section, "correctional administrator" means
27 the sheriff, probation officer, or director of the county department
28 of corrections.

29 (h) Notwithstanding any other law, the police department of a
30 city where an office is located to which persons on an electronic
31 monitoring program report may request the county correctional
32 administrator to provide information concerning those persons.
33 This information shall be limited to the name, address, date of
34 birth, offense committed by the home detainee, and if available,
35 at the discretion of the supervising agency and solely for
36 investigatory purposes, current and historical GPS coordinates of
37 the home detainee. A law enforcement department that does not
38 have the primary responsibility to supervise participants in the
39 electronic monitoring program that receives information pursuant
40 to this subdivision shall not use the information to conduct

1 enforcement actions based on administrative violations of the home
2 detention program. A law enforcement department that has
3 knowledge that the subject in a criminal investigation is a
4 participant in an electronic monitoring program shall make
5 reasonable efforts to notify the supervising agency prior to serving
6 a warrant or taking any law enforcement action against a participant
7 in an electronic monitoring program.

8 (i) It is the intent of the Legislature that home detention
9 programs established under this section maintain the highest public
10 confidence, credibility, and public safety. In the furtherance of
11 these standards, the following shall apply:

12 (1) The correctional administrator, with the approval of the
13 board of supervisors, may administer a home detention program
14 pursuant to written contracts with appropriate public or private
15 agencies or entities to provide specified program services. No
16 public or private agency or entity may operate a home detention
17 program in any county without a written contract with that county's
18 correctional administrator. However, this does not apply to the use
19 of electronic monitoring by the Department of Corrections and
20 Rehabilitation. No public or private agency or entity entering into
21 a contract may itself employ any person who is in the home
22 detention program.

23 (2) Program acceptance shall not circumvent the normal booking
24 process for sentenced offenders. All home detention program
25 participants shall be supervised.

26 (3) (A) All privately operated home detention programs shall
27 be under the jurisdiction of, and subject to the terms and conditions
28 of the contract entered into with, the correctional administrator.

29 (B) Each contract shall include, but not be limited to, all of the
30 following:

31 (i) A provision whereby the private agency or entity agrees to
32 operate in compliance with any available standards promulgated
33 by state correctional agencies and bodies, including the Corrections
34 Standards Authority, and all statutory provisions and mandates,
35 state and county, as appropriate and applicable to the operation of
36 home detention programs and the supervision of sentenced
37 offenders in a home detention program.

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

1 (iii) A provision that requires the private agency or entity to
2 demonstrate evidence of financial responsibility, submitted and
3 approved by the board of supervisors, in amounts and under
4 conditions sufficient to fully indemnify the county for reasonably
5 foreseeable public liability, including legal defense costs, that may
6 arise from, or be proximately caused by, acts or omissions of the
7 contractor. The contract shall provide for annual review by the
8 correctional administrator to ensure compliance with requirements
9 set by the board of supervisors and for adjustment of the financial
10 responsibility requirements if warranted by caseload changes or
11 other factors.

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

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

21 (C) All privately operated home detention programs shall
22 comply with all appropriate, applicable ordinances and regulations
23 specified in subdivision (a) of Section 1208.

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

28 (E) The failure of the private agency or entity to comply with
29 statutory provisions and requirements or with the standards
30 established by the contract and with the correctional administrator
31 may be sufficient cause to terminate the contract.

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

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

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

- 4 (1) A current liability insurance policy.
- 5 (2) A current errors and omissions insurance policy.
- 6 (3) A surety bond.

7 ~~SEC. 65.~~

8 *SEC. 51.* Section 1203.018 of the Penal Code is amended to
9 read:

10 1203.018. (a) Notwithstanding any other law, this section shall
11 only apply to inmates being held in lieu of bail and on no other
12 basis.

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

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

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

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

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

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

36 (d) The board of supervisors, after consulting with the sheriff
37 and district attorney, may prescribe reasonable rules and regulations
38 under which an electronic monitoring program pursuant to this
39 section may operate. As a condition of participation in the
40 electronic monitoring program, the participant shall give consent

1 in writing to participate and shall agree in writing to comply with
2 the rules and regulations of the program, including, but not limited
3 to, all of the following:

4 (1) The participant shall remain within the interior premises of
5 the participant's residence during the hours designated by the
6 correctional administrator.

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

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

19 (4) The correctional administrator in charge of the county
20 correctional facility from which the participant was released may,
21 without further order of the court, immediately retake the person
22 into custody if the electronic monitoring or supervising devices
23 are unable for any reason to properly perform their function at the
24 designated place of home detention, if the person fails to remain
25 within the place of home detention as stipulated in the agreement,
26 or if the person for any other reason no longer meets the established
27 criteria under this section.

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

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

36 (f) Whenever the peace officer supervising a participant has
37 reasonable cause to believe that the participant is not complying
38 with the rules or conditions of the program, or that the electronic
39 monitoring devices are unable to function properly in the
40 designated place of confinement, the peace officer may, under

1 general or specific authorization of the correctional administrator,
2 and without a warrant of arrest, retake the person into custody.

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

14 (2) The correctional administrator, or the administrator's
15 designee, shall have discretionary authority consistent with this
16 section to permit program participation as an alternative to physical
17 custody. All persons approved by the correctional administrator
18 to participate in the electronic monitoring program pursuant to
19 subdivision (c) who are denied participation and all persons
20 removed from program participation shall be notified in writing
21 of the specific reasons for the denial or removal. The notice of
22 denial or removal shall include the participant's appeal rights, as
23 established by program administrative policy.

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

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

35 (j) For purposes of this section, the following terms have the
36 following meanings:

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

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

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

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

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

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

14 (4) Whether the participant successfully completed the
15 prescribed period of home detention or was returned to a county
16 correctional facility, and if the person was returned to a county
17 correctional facility, the reason for the return.

18 (5) The gender and ethnicity of the participant.

19 (l) Notwithstanding any other law, upon request of a local law
20 enforcement agency with jurisdiction over the location where a
21 participant in an electronic monitoring program is placed, the
22 correctional administrator may, in the administrator's discretion
23 and solely for investigatory purposes, provide current and historical
24 GPS coordinates, if available.

25 (m) A law enforcement agency that does not have the primary
26 responsibility to supervise participants in the electronic monitoring
27 program that receives information pursuant to subdivision (k) shall
28 not use the information to conduct enforcement actions based on
29 administrative violations of the home detention program. An
30 agency that has knowledge that the subject in a criminal
31 investigation is a participant in an electronic monitoring program
32 shall make reasonable efforts to notify the supervising agency prior
33 to serving a warrant or taking any law enforcement action against
34 a participant in an electronic monitoring program.

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

39 (1) The correctional administrator, with the approval of the
40 board of supervisors, may administer an electronic monitoring

1 program as provided in this section pursuant to written contracts
2 with appropriate public or private agencies or entities to provide
3 specified program services. A public or private agency or entity
4 shall not operate a home detention program pursuant to this section
5 in any county without a written contract with that county's
6 correctional administrator. A public or private agency or entity
7 entering into a contract pursuant to this subdivision shall not itself
8 employ any person who is in the electronic monitoring program.

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

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

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

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

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

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

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

38 (v) A provision that requires an annual review by the
39 correctional administrator to ensure compliance with requirements
40 set by the board of supervisors and for adjustment of the financial

1 responsibility requirements if warranted by caseload changes or
2 other factors.

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

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

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

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

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

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

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

30 (i) A current liability insurance policy.

31 (ii) A current errors and omissions insurance policy.

32 (iii) A surety bond.

33 ~~SEC. 66. Section 1203.066 of the Penal Code is amended to~~
34 ~~read:~~

35 ~~1203.066. (a) Notwithstanding Section 1203 or any other law,~~
36 ~~probation shall not be granted to, nor shall the execution or~~
37 ~~imposition of sentence be suspended for, nor shall a finding~~
38 ~~bringing the defendant within the provisions of this section be~~
39 ~~stricken pursuant to Section 1385 for, any of the following persons:~~