

1 ~~(1) A person who is convicted of violating Section 288 or 288.5~~
2 ~~when the act is committed by the use of force, violence, duress,~~
3 ~~menace, or fear of immediate and unlawful bodily injury on the~~
4 ~~victim or another person.~~

5 ~~(2) A person who caused bodily injury on the child victim in~~
6 ~~committing a violation of Section 288 or 288.5.~~

7 ~~(3) A person who is convicted of a violation of Section 288 or~~
8 ~~288.5 and who was a stranger to the child victim or befriended the~~
9 ~~child victim for the purpose of committing an act in violation of~~
10 ~~Section 288 or 288.5, unless the defendant honestly and reasonably~~
11 ~~believed the victim was 14 years of age or older.~~

12 ~~(4) A person who used a weapon during the commission of a~~
13 ~~violation of Section 288 or 288.5.~~

14 ~~(5) A person who is convicted of committing a violation of~~
15 ~~Section 288 or 288.5 and who has been previously convicted of a~~
16 ~~violation of Section 261, 262, 264.1, 266, 266e, 267, 285, 286,~~
17 ~~287, 288, 288.5, or 289, or former Section 288a, or of assaulting~~
18 ~~another person with intent to commit a crime specified in this~~
19 ~~paragraph in violation of Section 220, or who has been previously~~
20 ~~convicted in another state of an offense which, if committed or~~
21 ~~attempted in this state, would constitute an offense enumerated in~~
22 ~~this paragraph.~~

23 ~~(6) A person who violated Section 288 or 288.5 while~~
24 ~~kidnapping the child victim in violation of Section 207, 209, or~~
25 ~~209.5.~~

26 ~~(7) A person who is convicted of committing a violation of~~
27 ~~Section 288 or 288.5 against more than one victim.~~

28 ~~(8) A person who, in violating Section 288 or 288.5, has~~
29 ~~substantial sexual conduct with a victim who is under 14 years of~~
30 ~~age.~~

31 ~~(9) A person who, in violating Section 288 or 288.5, used~~
32 ~~obscene matter, as defined in Section 311, or matter, as defined in~~
33 ~~Section 311, depicting sexual conduct, as defined in Section 311.3.~~

34 ~~(b) "Substantial sexual conduct" means penetration of the vagina~~
35 ~~or rectum of either the victim or the offender by the penis of the~~
36 ~~other or by any foreign object, oral copulation, or masturbation of~~
37 ~~either the victim or the offender.~~

38 ~~(c) (1) Except for a violation of subdivision (b) of Section 288,~~
39 ~~this section shall only apply if the existence of any fact required~~
40 ~~in subdivision (a) is alleged in the accusatory pleading and is either~~

1 admitted by the defendant in open court, or found to be true by the
2 trier of fact.

3 ~~(2) For the existence of any fact under paragraph (7) of~~
4 ~~subdivision (a), the allegation must be made pursuant to this~~
5 ~~section.~~

6 ~~(d) (1) If a person is convicted of a violation of Section 288 or~~
7 ~~288.5, and the factors listed in subdivision (a) are not pled or~~
8 ~~proven, probation may be granted only if the following terms and~~
9 ~~conditions are met:~~

10 ~~(A) If the defendant is a member of the victim's household, the~~
11 ~~court finds that probation is in the best interest of the child victim.~~

12 ~~(B) The court finds that rehabilitation of the defendant is feasible~~
13 ~~and that the defendant is amenable to undergoing treatment, and~~
14 ~~the defendant is placed in a recognized treatment program designed~~
15 ~~to deal with child molestation immediately after the grant of~~
16 ~~probation or the suspension of execution or imposition of sentence.~~

17 ~~(C) If the defendant is a member of the victim's household,~~
18 ~~probation shall not be granted unless the defendant is removed~~
19 ~~from the household of the victim until the court determines that~~
20 ~~the best interests of the victim would be served by the defendant's~~
21 ~~return. While removed from the household, the court shall prohibit~~
22 ~~contact by the defendant with the victim, with the exception that~~
23 ~~the court may permit supervised contact, upon the request of the~~
24 ~~director of the court-ordered supervised treatment program, and~~
25 ~~with the agreement of the victim and the victim's parent or legal~~
26 ~~guardian, other than the defendant.~~

27 ~~(D) If the defendant is not a member of the victim's household,~~
28 ~~the court shall prohibit the defendant from being placed or residing~~
29 ~~within one-half mile of the child victim's residence for the duration~~
30 ~~of the probation term unless the court, on the record, states its~~
31 ~~reasons for finding that this residency restriction would not serve~~
32 ~~the best interests of the victim.~~

33 ~~(E) The court finds that there is no threat of physical harm to~~
34 ~~the victim if probation is granted.~~

35 ~~(2) The court shall state its reasons on the record for whatever~~
36 ~~sentence it imposes on the defendant.~~

37 ~~(3) The court shall order the psychiatrist or psychologist who~~
38 ~~is appointed pursuant to Section 288.1 to include a consideration~~
39 ~~of the factors specified in subparagraphs (A), (B), and (C) of~~
40 ~~paragraph (1) in making their report to the court.~~

1 ~~(4) The court shall order the defendant to comply with all~~
2 ~~probation requirements, including the requirements to attend~~
3 ~~counseling and keep all program appointments.~~

4 ~~(5) No victim shall be compelled to participate in a program or~~
5 ~~counseling, and no program may condition a defendant's~~
6 ~~enrollment on participation by the victim.~~

7 ~~(e) As used in subdivision (d), the following definitions apply:~~

8 ~~(1) "Contact with the victim" includes all physical contact, being~~
9 ~~in the presence of the victim, communicating by any means,~~
10 ~~including by a third party acting on behalf of the defendant, or~~
11 ~~sending any gifts.~~

12 ~~(2) "Recognized treatment program" means a program that~~
13 ~~consists of the following components:~~

14 ~~(A) Substantial expertise in the treatment of child sexual abuse.~~

15 ~~(B) A treatment regimen designed to specifically address the~~
16 ~~offense.~~

17 ~~(C) The ability to serve indigent clients.~~

18 ~~(D) Adequate reporting requirements to ensure that all persons~~
19 ~~who, after being ordered to attend and complete a program, may~~
20 ~~be identified for either failure to enroll in, or failure to successfully~~
21 ~~complete, the program, or for the successful completion of the~~
22 ~~program as ordered. The program shall notify the court and the~~
23 ~~probation department, in writing, within the period of time and in~~
24 ~~the manner specified by the court of any person who fails to~~
25 ~~complete the program. Notification shall be given if the program~~
26 ~~determines that the defendant is performing unsatisfactorily or if~~
27 ~~the defendant is not benefiting from the education, treatment, or~~
28 ~~counseling.~~

29 ~~SEC. 67. Section 1203.067 of the Penal Code is amended to~~
30 ~~read:~~

31 ~~1203.067. (a) Notwithstanding any other law, before probation~~
32 ~~may be granted to any person convicted of a felony specified in~~
33 ~~Section 261, 262, 264.1, 286, 287, 288, 288.5, or 289, or former~~
34 ~~Section 288a, who is eligible for probation, the court shall do all~~
35 ~~of the following:~~

36 ~~(1) Order the defendant evaluated pursuant to Section 1203.03,~~
37 ~~or similar evaluation by the county probation department.~~

38 ~~(2) Conduct a hearing at the time of sentencing to determine if~~
39 ~~probation of the defendant would pose a threat to the victim. The~~

1 victim shall be notified of the hearing by the prosecuting attorney
2 and given an opportunity to address the court.

3 ~~(3) Order any psychiatrist or psychologist appointed pursuant~~
4 ~~to Section 288.1 to include a consideration of the threat to the~~
5 ~~victim and the defendant's potential for positive response to~~
6 ~~treatment in making their report to the court. Nothing in this section~~
7 ~~shall be construed to require the court to order an examination of~~
8 ~~the victim.~~

9 (b) On or after July 1, 2012, the terms of probation for persons
10 placed on formal probation for an offense that requires registration
11 pursuant to Sections 290 to 290.023, inclusive, shall include all of
12 the following:

13 (1) Persons placed on formal probation prior to July 1, 2012,
14 shall participate in an approved sex offender management program,
15 following the standards developed pursuant to Section 9003, for
16 a period of not less than one year or the remaining term of
17 probation if it is less than one year. The length of the period in the
18 program is to be determined by the certified sex offender
19 management professional in consultation with the probation officer
20 and as approved by the court. Participation in this program applies
21 to every person described without regard to when the crime or
22 crimes were committed.

23 (2) Persons placed on formal probation on or after July 1, 2012,
24 shall successfully complete a sex offender management program,
25 following the standards developed pursuant to Section 9003, as a
26 condition of release from probation. The length of the period in
27 the program shall be not less than one year, up to the entire period
28 of probation, as determined by the certified sex offender
29 management professional in consultation with the probation officer
30 and as approved by the court. Participation in this program applies
31 to each person without regard to when the crime or crimes were
32 committed.

33 (3) ~~Waiver of any privilege against self-incrimination and~~
34 ~~participation in polygraph examinations, which shall be part of the~~
35 ~~sex offender management program.~~

36 (4) ~~Waiver of any psychotherapist-patient privilege to enable~~
37 ~~communication between the sex offender management professional~~
38 ~~and supervising probation officer, pursuant to Section 290.09.~~

1 ~~SEC. 68.~~

2 *SEC. 52.* Section 1203.097 of the Penal Code is amended to
3 read:

4 1203.097. (a) If a person is granted probation for a crime in
5 which the victim is a person defined in Section 6211 of the Family
6 Code, the terms of probation shall include all of the following:

7 (1) A minimum period of probation of 36 months, which may
8 include a period of summary probation as appropriate.

9 (2) A criminal court protective order protecting the victim from
10 further acts of violence, threats, stalking, sexual abuse, and
11 harassment, and, if appropriate, containing residence exclusion or
12 stay-away conditions.

13 (3) Notice to the victim of the disposition of the case.

14 (4) Booking the defendant within one week of sentencing if the
15 defendant has not already been booked.

16 (5) Successful completion of a batterer's program, as defined
17 in subdivision (c), or if none is available, another appropriate
18 counseling program designated by the court, for a period not less
19 than one year with periodic progress reports by the program to the
20 court every three months or less and weekly sessions of a minimum
21 of two hours' class time duration. The defendant shall attend
22 consecutive weekly sessions, unless granted an excused absence
23 for good cause by the program for no more than three individual
24 sessions during the entire program, and shall complete the program
25 within 18 months, unless, after a hearing, the court finds good
26 cause to modify the requirements of consecutive attendance or
27 completion within 18 months.

28 (6) (A) The court shall order the defendant to comply with all
29 probation requirements, including the requirements to attend
30 counseling and keep all program appointments.

31 (B) Upon request by the batterer's program, the court shall
32 provide the defendant's arrest report, prior incidents of violence,
33 and treatment history to the program.

34 (7) The court also shall order the defendant to perform a
35 specified amount of appropriate community service, as designated
36 by the court. The defendant shall present the court with proof of
37 completion of community service and the court shall determine if
38 the community service has been satisfactorily completed. If
39 sufficient staff and resources are available, the community service

1 shall be performed under the jurisdiction of the local agency
2 overseeing a community service program.

3 (8) If the program finds that the defendant is unsuitable, the
4 program shall immediately contact the probation department or
5 the court. The probation department or court shall either recalendar
6 the case for hearing or refer the defendant to an appropriate
7 alternative batterer's program.

8 (9) (A) Upon recommendation of the program, a court shall
9 require a defendant to participate in additional sessions throughout
10 the probationary period, unless it finds that it is not in the interests
11 of justice to do so, states its reasons on the record, and enters them
12 into the minutes. In deciding whether the defendant would benefit
13 from more sessions, the court shall consider whether any of the
14 following conditions exists:

15 (i) The defendant has been violence free for a minimum of six
16 months.

17 (ii) The defendant has cooperated and participated in the
18 batterer's program.

19 (iii) The defendant demonstrates an understanding of and
20 practices positive conflict resolution skills.

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

25 (v) The defendant demonstrates an understanding that the use
26 of coercion or violent behavior to maintain dominance is
27 unacceptable in an intimate relationship.

28 (vi) The defendant has made threats to harm anyone in any
29 manner.

30 (vii) The defendant has complied with applicable requirements
31 under paragraph (6) of subdivision (c) or subparagraph (C) to
32 receive alcohol counseling, drug counseling, or both.

33 (viii) The defendant demonstrates acceptance of responsibility
34 for the abusive behavior perpetrated against the victim.

35 (B) The program shall immediately report any violation of the
36 terms of the protective order, including any new acts of violence
37 or failure to comply with the program requirements, to the court,
38 the prosecutor, and, if formal probation has been ordered, to the
39 probation department. The probationer shall file proof of

1 enrollment in a batterer's program with the court within 30 days
2 of conviction.

3 (C) Concurrent with other requirements under this section, in
4 addition to, and not in lieu of, the batterer's program, and unless
5 prohibited by the referring court, the probation department or the
6 court may make provisions for a defendant to use the defendant's
7 resources to enroll in a chemical dependency program or to enter
8 voluntarily a licensed chemical dependency recovery hospital or
9 residential treatment program that has a valid license issued by the
10 state to provide alcohol or drug services to receive program
11 participation credit, as determined by the court. The probation
12 department shall document evidence of this hospital or residential
13 treatment participation in the defendant's program file.

14 (10) (A) The conditions of probation may include, in lieu of a
15 fine, ~~the requirement that the defendant reimburse the victim for~~
16 ~~reasonable expenses that the court finds are the direct result of the~~
17 ~~defendant's offense: one or both of the following requirements:~~

18 (i) *That the defendant make payments to a battered women's*
19 *shelter, up to a maximum of five thousand dollars (\$5,000).*

20 (ii) *That the defendant reimburse the victim for reasonable*
21 *expenses that the court finds are the direct result of the defendant's*
22 *offense.*

23 (B) For any order to pay a ~~fine~~ fine, to make payments to a
24 battered women's shelter, or to pay restitution as a condition of
25 probation under this subdivision, the court shall make a
26 determination of the defendant's ability to pay. Determination of
27 a defendant's ability to pay may include the defendant's future
28 earning capacity. A defendant shall bear the burden of
29 demonstrating lack of ability to pay. Express findings by the court
30 as to the factors bearing on the amount of the fine shall not be
31 required. *An order to make payments to a battered women's shelter*
32 *shall not be made if it would impair the ability of the defendant to*
33 *pay direct restitution to the victim or court-ordered child support.*

34 When the injury to a married person is caused, in whole or in part,
35 by the criminal acts of the person's spouse in violation of this
36 section, the community property shall not be used to discharge the
37 liability of the offending spouse for restitution to the injured
38 spouse, as required by Section 1203.04, as operative on or before
39 August 2, 1995, or Section 1202.4, or to a shelter for costs with

1 regard to the injured spouse, until all separate property of the
2 offending spouse is exhausted.

3 (11) If it appears to the prosecuting attorney, the court, or the
4 probation department that the defendant is performing
5 unsatisfactorily in the assigned program, is not benefiting from
6 counseling, or has engaged in criminal conduct, upon request of
7 the probation officer, the prosecuting attorney, or on its own
8 motion, the court, as a priority calendar item, shall hold a hearing
9 to determine whether further sentencing should proceed. The court
10 may consider factors, including, but not limited to, any violence
11 by the defendant against the former or a new victim while on
12 probation and noncompliance with any other specific condition of
13 probation. If the court finds that the defendant is not performing
14 satisfactorily in the assigned program, is not benefiting from the
15 program, has not complied with a condition of probation, or has
16 engaged in criminal conduct, the court shall terminate the
17 defendant's participation in the program and shall proceed with
18 further sentencing.

19 (b) If a person is granted formal probation for a crime in which
20 the victim is a person defined in Section 6211 of the Family Code,
21 in addition to the terms specified in subdivision (a), all of the
22 following shall apply:

23 (1) The probation department shall make an investigation and
24 take into consideration the defendant's age, medical history,
25 employment and service records, educational background,
26 community and family ties, prior incidents of violence, police
27 report, treatment history, if any, demonstrable motivation, and
28 other mitigating factors in determining which batterer's program
29 would be appropriate for the defendant. This information shall be
30 provided to the batterer's program if it is requested. The probation
31 department shall also determine which community programs the
32 defendant would benefit from and which of those programs would
33 accept the defendant. The probation department shall report its
34 findings and recommendations to the court.

35 (2) The court shall advise the defendant that the failure to report
36 to the probation department for the initial investigation, as directed
37 by the court, or the failure to enroll in a specified program, as
38 directed by the court or the probation department, shall result in
39 possible further incarceration. The court, in the interests of justice,
40 may relieve the defendant from the prohibition set forth in this

1 subdivision based upon the defendant's mistake or excusable
2 neglect. Application for this relief shall be filed within 20 court
3 days of the missed deadline. This time limitation may not be
4 extended. A copy of any application for relief shall be served on
5 the office of the prosecuting attorney.

6 (3) After the court orders the defendant to a batterer's program,
7 the probation department shall conduct an initial assessment of
8 the defendant, including, but not limited to, all of the following:

9 (A) Social, economic, and family background.

10 (B) Education.

11 (C) Vocational achievements.

12 (D) Criminal history.

13 (E) Medical history.

14 (F) Substance abuse history.

15 (G) Consultation with the probation officer.

16 (H) Verbal consultation with the victim, only if the victim
17 desires to participate.

18 (I) Assessment of the future probability of the defendant
19 committing murder.

20 (4) The probation department shall attempt to notify the victim
21 regarding the requirements for the defendant's participation in the
22 batterer's program, as well as regarding available victim resources.
23 The victim also shall be informed that attendance in any program
24 does not guarantee that an abuser will not be violent.

25 (c) The court or the probation department shall refer defendants
26 only to batterer's programs that follow standards outlined in
27 paragraph (1), which may include, but are not limited to, lectures,
28 classes, group discussions, and counseling. The probation
29 department shall design and implement an approval and renewal
30 process for batterer's programs and shall solicit input from criminal
31 justice agencies and domestic violence victim advocacy programs.

32 (1) The goal of a batterer's program under this section shall be
33 to stop domestic violence. A batterer's program shall consist of
34 the following components:

35 (A) Strategies to hold the defendant accountable for the violence
36 in a relationship, including, but not limited to, providing the
37 defendant with a written statement that the defendant shall be held
38 accountable for acts or threats of domestic violence.

39 (B) A requirement that the defendant participate in ongoing
40 same-gender group sessions.

1 (C) An initial intake that provides written definitions to the
2 defendant of physical, emotional, sexual, economic, and verbal
3 abuse, and the techniques for stopping these types of abuse.

4 (D) Procedures to inform the victim regarding the requirements
5 for the defendant's participation in the intervention program as
6 well as regarding available victim resources. The victim also shall
7 be informed that attendance in any program does not guarantee
8 that an abuser will not be violent.

9 (E) A requirement that the defendant attend group sessions free
10 of chemical influence.

11 (F) Educational programming that examines, at a minimum,
12 gender roles, socialization, the nature of violence, the dynamics
13 of power and control, and the effects of abuse on children and
14 others.

15 (G) A requirement that excludes any couple counseling or family
16 counseling, or both.

17 (H) Procedures that give the program the right to assess whether
18 or not the defendant would benefit from the program and to refuse
19 to enroll the defendant if it is determined that the defendant would
20 not benefit from the program. If possible, the program shall suggest
21 an appropriate alternative program.

22 (I) Program staff who, to the extent possible, have specific
23 knowledge regarding, but not limited to, spousal abuse, child abuse,
24 sexual abuse, substance abuse, the dynamics of violence and abuse,
25 the law, and procedures of the legal system.

26 (J) Program staff who are encouraged to utilize the expertise,
27 training, and assistance of local domestic violence centers.

28 (K) A requirement that the defendant enter into a written
29 agreement with the program, which shall include an outline of the
30 contents of the program, the attendance requirements, the
31 requirement to attend group sessions free of chemical influence,
32 and a statement that the defendant may be removed from the
33 program if it is determined that the defendant is not benefiting
34 from the program or is disruptive to the program.

35 (L) A requirement that the defendant sign a confidentiality
36 statement prohibiting disclosure of any information obtained
37 through participating in the program or during group sessions
38 regarding other participants in the program.

39 (M) Program content that provides cultural and ethnic
40 sensitivity.

1 (N) A requirement of a written referral from the court or
2 probation department prior to permitting the defendant to enroll
3 in the program. The written referral shall state the number of
4 minimum sessions required by the court.

5 (O) Procedures for submitting to the probation department all
6 of the following uniform written responses:

7 (i) Proof of enrollment for each session.

8 (ii) Periodic progress reports that include attendance, fee
9 payment history, and program compliance.

10 (iii) Final evaluation that includes the program's evaluation of
11 the defendant's progress, using the criteria set forth in subparagraph
12 (A) of paragraph (9) of subdivision (a), and recommendation for
13 either successful or unsuccessful termination or continuation in
14 the program.

15 (2) The court shall refer persons only to batterer's programs
16 that have been approved by the probation department pursuant to
17 paragraph (5). The probation department shall do both of the
18 following:

19 (A) Provide for the issuance of a provisional approval, provided
20 that the applicant is in substantial compliance with applicable laws
21 and regulations and an urgent need for approval exists. A
22 provisional approval shall be considered an authorization to provide
23 services and shall not be considered a vested right.

24 (B) If the probation department determines that a program is
25 not in compliance with standards set by the department, the
26 department shall provide written notice of the noncompliant areas
27 to the program. The program shall submit a written plan of
28 corrections within 14 days from the date of the written notice on
29 noncompliance. A plan of correction shall include, but not be
30 limited to, a description of each corrective action and timeframe
31 for implementation. The department shall review and approve all
32 or any part of the plan of correction and notify the program of
33 approval or disapproval in writing. If the program fails to submit
34 a plan of correction or fails to implement the approved plan of
35 correction, the department shall consider whether to revoke or
36 suspend approval and, upon revoking or suspending approval, shall
37 have the option to cease referrals of defendants under this section.

38 (3) No program, regardless of its source of funding, shall be
39 approved unless it meets all of the following standards:

1 (A) The establishment of guidelines and criteria for education
2 services, including standards of services that may include lectures,
3 classes, and group discussions.

4 (B) Supervision of the defendant for the purpose of evaluating
5 the person's progress in the program.

6 (C) Adequate reporting requirements to ensure that all persons
7 who, after being ordered to attend and complete a program, may
8 be identified for either failure to enroll in, or failure to successfully
9 complete, the program or for the successful completion of the
10 program as ordered. The program shall notify the court and the
11 probation department, in writing, within the period of time and in
12 the manner specified by the court of any person who fails to
13 complete the program. Notification shall be given if the program
14 determines that the defendant is performing unsatisfactorily or if
15 the defendant is not benefiting from the education, treatment, or
16 counseling.

17 (D) No victim shall be compelled to participate in a program
18 or counseling, and no program may condition a defendant's
19 enrollment on participation by the victim.

20 (4) In making referrals of indigent defendants to approved
21 batterer's programs, the probation department shall apportion these
22 referrals evenly among the approved programs.

23 (5) The probation department shall have the sole authority to
24 approve a batterer's program for probation. The program shall be
25 required to obtain only one approval but shall renew that approval
26 annually.

27 (A) The procedure for the approval of a new or existing program
28 shall include all of the following:

29 (i) The completion of a written application containing necessary
30 and pertinent information describing the applicant program.

31 (ii) The demonstration by the program that it possesses adequate
32 administrative and operational capability to operate a batterer's
33 treatment program. The program shall provide documentation to
34 prove that the program has conducted batterer's programs for at
35 least one year prior to application. This requirement may be waived
36 under subparagraph (A) of paragraph (2) if there is no existing
37 batterer's program in the city, county, or city and county.

38 (iii) The onsite review of the program, including monitoring of
39 a session to determine that the program adheres to applicable
40 statutes and regulations.

1 (iv) The payment of the approval fee.

2 (B) The probation department shall fix a fee for approval not
3 to exceed two hundred fifty dollars (\$250) and for approval renewal
4 not to exceed two hundred fifty dollars (\$250) every year in an
5 amount sufficient to cover its costs in administering the approval
6 process under this section. No fee shall be charged for the approval
7 of local governmental entities.

8 (C) The probation department has the sole authority to approve
9 the issuance, denial, suspension, or revocation of approval and to
10 cease new enrollments or referrals to a batterer's program under
11 this section. The probation department shall review information
12 relative to a program's performance or failure to adhere to
13 standards, or both. The probation department may suspend or
14 revoke an approval issued under this subdivision or deny an
15 application to renew an approval or to modify the terms and
16 conditions of approval, based on grounds established by probation,
17 including, but not limited to, either of the following:

18 (i) Violation of this section by any person holding approval or
19 by a program employee in a program under this section.

20 (ii) Misrepresentation of any material fact in obtaining the
21 approval.

22 (6) For defendants who are chronic users or serious abusers of
23 drugs or alcohol, standard components in the program shall include
24 concurrent counseling for substance abuse and violent behavior,
25 and in appropriate cases, detoxification and abstinence from the
26 abused substance.

27 (7) The program shall conduct an exit conference that assesses
28 the defendant's progress during participation in the batterer's
29 program.

30 (d) An act or omission relating to the approval of a batterer's
31 treatment programs under paragraph (5) of subdivision (c) is a
32 discretionary act pursuant to Section 820.2 of the Government
33 Code.

34 ~~SEC. 69.~~

35 *SEC. 53.* Section 1203.1 of the Penal Code is amended to read:

36 1203.1. (a) The court, or judge thereof, in the order granting
37 probation, may suspend the imposing or the execution of the
38 sentence and may direct that the suspension may continue for a
39 period of time not exceeding the maximum possible term of the
40 sentence, except as hereinafter set forth, and upon those terms and

1 conditions as it shall determine. The court, or judge thereof, in the
2 order granting probation and as a condition thereof, may imprison
3 the defendant in a county jail for a period not exceeding the
4 maximum time fixed by law in the case.

5 However, if the maximum possible term of the sentence is five
6 years or less, the period of suspension of imposition or execution
7 of sentence may, in the discretion of the court, continue for not
8 over five years. The following shall apply to this subdivision:

9 (1) The court may fine the defendant in a sum not to exceed the
10 maximum fine provided by law in the case.

11 (2) The court may, in connection with granting probation,
12 impose either imprisonment in a county jail or a fine, both, or
13 neither.

14 (3) The court shall provide for restitution in proper cases. The
15 restitution order shall be fully enforceable as a civil judgment
16 forthwith and in accordance with Section 1202.4 of the Penal Code.

17 (4) The court may require bonds for the faithful observance and
18 performance of any or all of the conditions of probation.

19 (b) The court shall consider whether the defendant as a condition
20 of probation shall make restitution to the victim or the Restitution
21 Fund. Any restitution payment received by a court or probation
22 department in the form of cash or money order shall be forwarded
23 to the victim within 30 days from the date the payment is received
24 by the department. Any restitution payment received by a court or
25 probation department in the form of a check or draft shall be
26 forwarded to the victim within 45 days from the date the payment
27 is received, provided, that payment need not be forwarded to a
28 victim until 180 days from the date the first payment is received,
29 if the restitution payments for that victim received by the court or
30 probation department total less than fifty dollars (\$50). In cases
31 where the court has ordered the defendant to pay restitution to
32 multiple victims and where the administrative cost of disbursing
33 restitution payments to multiple victims involves a significant cost,
34 any restitution payment received by a probation department shall
35 be forwarded to multiple victims when it is cost effective to do so,
36 but in no event shall restitution disbursements be delayed beyond
37 180 days from the date the payment is received by the probation
38 department.

39 (c) In counties or cities and counties where road camps, farms,
40 or other public work is available the court may place the

1 probationer in the road camp, farm, or other public work instead
2 of in jail. In this case, Section 25359 of the Government Code shall
3 apply to probation and the court shall have the same power to
4 require adult probationers to work, as prisoners confined in the
5 county jail are required to work, at public work. Each county board
6 of supervisors may fix the scale of compensation of the adult
7 probationers in that county.

8 (d) In all cases of probation, the court may require as a condition
9 of probation that the probationer go to work and earn money for
10 the support of the probationer's dependents or to pay any fine
11 imposed or reparation condition, to keep an account of the
12 probationer's earnings, to report them to the probation officer and
13 apply those earnings as directed by the court.

14 (e) The court shall also consider whether the defendant as a
15 condition of probation shall make restitution to a public agency
16 for the costs of an emergency response pursuant to Article 8
17 (commencing with Section 53150) of Chapter 1 of Part 1 of
18 Division 2 of the Government Code.

19 (f) In all felony cases in which, as a condition of probation, a
20 judge of the superior court sitting by authority of law elsewhere
21 than at the county seat requires a convicted person to serve their
22 sentence at intermittent periods the sentence may be served on the
23 order of the judge at the city jail nearest to the place at which the
24 court is sitting, and the cost of the convicted person's maintenance
25 shall be a county charge.

26 (g) (1) The court and prosecuting attorney shall consider
27 whether any defendant who has been convicted of a nonviolent or
28 nonserious offense and ordered to participate in community service
29 as a condition of probation shall be required to engage in the
30 removal of graffiti in the performance of the community service.
31 For the purpose of this subdivision, a nonserious offense shall not
32 include the following:

33 (A) Offenses in violation of the Dangerous Weapons Control
34 Law, as defined in Section 23500.

35 (B) Offenses involving the use of a dangerous or deadly weapon,
36 including all violations of Section 417.

37 (C) Offenses involving the use or attempted use of violence
38 against the person of another or involving injury to a victim.

39 (D) Offenses involving annoying or molesting children.

1 (2) Notwithstanding subparagraph (A) of paragraph (1), any
2 person who violates Chapter 1 (commencing with Section 29610)
3 of Division 9 of Title 4 of Part 6 shall be ordered to perform not
4 less than 100 hours and not more than 500 hours of community
5 service as a condition of probation.

6 (3) The court and the prosecuting attorney need not consider a
7 defendant pursuant to paragraph (1) if the following circumstances
8 exist:

9 (A) The defendant was convicted of any offense set forth in
10 subdivision (c) of Section 667.5 or subdivision (c) of Section
11 1192.7.

12 (B) The judge believes that the public safety may be endangered
13 if the person is ordered to do community service or the judge
14 believes that the facts or circumstances or facts and circumstances
15 call for imposition of a more substantial penalty.

16 (h) The probation officer or the officer's designated
17 representative shall consider whether any defendant who has been
18 convicted of a nonviolent and nonserious offense and ordered to
19 participate in community service as a condition of probation shall
20 be required to engage in the performance of house repairs or yard
21 services for senior citizens and the performance of repairs to senior
22 centers through contact with local senior service organizations in
23 the performance of the community service.

24 (i) (1) Upon conviction of any offense involving child abuse
25 or neglect, the court may require, in addition to any or all of the
26 terms of imprisonment, fine, and other reasonable conditions
27 specified in this section, that the defendant participate in counseling
28 or education programs, or both, including, but not limited to, parent
29 education or parenting programs operated by community colleges,
30 school districts, other public agencies, or private agencies.

31 (2) Upon conviction of any sex offense subjecting the defendant
32 to the registration requirements of Section 290, the court may order
33 as a condition of probation, at the request of the victim or in the
34 court's discretion, that the defendant stay away from the victim
35 and the victim's residence or place of employment, and that the
36 defendant have no contact with the victim in person, by telephone
37 or electronic means, or by mail.

38 (j) The court may impose and require any or all of the terms of
39 imprisonment, fine, and conditions specified in this section, and
40 other reasonable conditions, as it may determine are fitting and

1 proper to the end that justice may be done, that amends may be
2 made to society for the breach of the law, for any injury done to
3 any person resulting from that breach, and generally and
4 specifically for the reformation and rehabilitation of the
5 probationer, and that should the probationer violate any of the
6 terms or conditions imposed by the court in the matter, it shall
7 have authority to modify and change any and all the terms and
8 conditions and to reimprison the probationer in the county jail
9 within the limitations of the penalty of the public offense involved.
10 Upon the defendant being released from the county jail under the
11 terms of probation as originally granted or any modification
12 subsequently made, and in all cases where confinement in a county
13 jail has not been a condition of the grant of probation, the court
14 shall place the defendant or probationer in and under the charge
15 of the probation officer of the court, for the period or term fixed
16 for probation. However, upon the payment of any fine imposed
17 and the fulfillment of all conditions of probation, probation shall
18 cease at the end of the term of probation, or sooner, in the event
19 of modification. In counties and cities and counties in which there
20 are facilities for taking fingerprints, those of each probationer shall
21 be taken and a record of them kept and preserved.

22 (k) Notwithstanding any other provisions of law to the contrary,
23 except as provided in Section 13967, as operative on or before
24 September 28, 1994, of the Government Code and Section 13967.5
25 of the Government Code and Sections 1202.4, 1463.16, paragraph
26 (1) of subdivision (a) of Section 1463.18, and Section 1464, and
27 Section 1203.04, as operative on or before August 2, 1995, all
28 fines collected by a county probation officer in any of the courts
29 of this state, as a condition of the granting of probation or as a part
30 of the terms of probation, shall be paid into the county treasury
31 and placed in the general fund for the use and benefit of the county.

32 ~~SEC. 70. Section 1203.1a of the Penal Code is amended to~~
33 ~~read:~~

34 ~~1203.1a. The probation officer of the county may authorize~~
35 ~~the temporary removal under custody or temporary release without~~
36 ~~custody of any inmate of the county jail, honor farm, or other~~
37 ~~detention facility, who is confined or committed as a condition of~~
38 ~~probation, after suspension of imposition of sentence or suspension~~
39 ~~of execution of sentence, for purposes preparatory to the inmate's~~
40 ~~return to the community, within 30 days prior to the inmate's~~

1 ~~release date, if the probation officer concludes that the inmate is~~
2 ~~a fit subject therefor.~~

3 ~~SEC. 71.~~

4 *SEC. 54.* Section 1203.1ab of the Penal Code is amended to
5 read:

6 1203.1ab. Upon conviction of any offense involving the
7 unlawful possession, use, sale, or other furnishing of any controlled
8 substance, as defined in Chapter 2 (commencing with Section
9 11053) of Division 10 of the Health and Safety Code, in addition
10 to any or all of the terms of imprisonment, fine, and other
11 reasonable conditions specified in or permitted by Section 1203.1,
12 unless it makes a finding that this condition would not serve the
13 interests of justice, the court, when recommended by the probation
14 officer, shall require as a condition of probation that the defendant
15 shall not use or be under the influence of any controlled substance
16 and shall submit to drug and substance abuse testing as directed
17 by the probation officer.

18 ~~SEC. 72.~~

19 *SEC. 55.* Section 1203.1b of the Penal Code is repealed.

20 ~~SEC. 73.~~

21 *SEC. 56.* Section 1203.1bb of the Penal Code is repealed.

22 ~~SEC. 74.~~

23 *SEC. 57.* Section 1203.1c of the Penal Code is repealed.

24 ~~SEC. 75.~~

25 *SEC. 58.* Section 1203.1d of the Penal Code is amended to
26 read:

27 1203.1d. (a) In determining the amount and manner of
28 disbursement under an order made pursuant to this code requiring
29 a defendant to make reparation or restitution to a victim of a crime
30 or to pay any other reimbursable costs, the court, after determining
31 the amount of any fine and penalty assessments, and a county
32 financial evaluation officer when making a financial evaluation,
33 shall first determine the amount of restitution to be ordered paid
34 to any victim, and shall determine the amount of the other
35 reimbursable costs.

36 If payment is made in full, the payment shall be apportioned and
37 disbursed in the amounts ordered by the court.

38 If reasonable and compatible with the defendant's financial
39 ability, the court may order payments to be made in installments.

1 (b) With respect to installment payments and amounts collected
2 by the Franchise Tax Board pursuant to Section 19280 of the
3 Revenue and Taxation Code and subsequently transferred by the
4 Controller pursuant to Section 19282 of the Revenue and Taxation
5 Code, the board of supervisors shall provide that disbursements
6 be made in the following order of priority:

7 (1) Restitution ordered to, or on behalf of, the victim pursuant
8 to subdivision (f) of Section 1202.4.

9 (2) The state surcharge ordered pursuant to Section 1465.7.

10 (3) Any fines, penalty assessments, and restitution fines ordered
11 pursuant to subdivision (b) of Section 1202.4. Payment of each of
12 these items shall be made on a proportional basis to the total
13 amount levied for all of these items.

14 (4) Any other reimbursable costs.

15 (c) The board of supervisors shall apply these priorities of
16 disbursement to orders or parts of orders in cases where defendants
17 have been ordered to pay more than one court order.

18 (d) Documentary evidence, such as bills, receipts, repair
19 estimates, insurance payment statements, payroll stubs, business
20 records, and similar documents relevant to the value of the stolen
21 or damaged property, medical expenses, and wages and profits
22 lost shall not be excluded as hearsay evidence.

23 ~~SEC. 76.~~

24 ~~SEC. 59.~~ Section 1203.1e of the Penal Code is repealed.

25 ~~SEC. 77.~~ Section 1203.1h of the Penal Code is repealed.

26 ~~SEC. 78.~~ Section 1203.1i of the Penal Code is amended to
27 read:

28 ~~1203.1i. (a) In any case in which a defendant is convicted of~~
29 ~~a violation of any building standards adopted by a local entity by~~
30 ~~ordinance or resolution, including, but not limited to, local health,~~
31 ~~fire, building, or safety ordinances or resolutions, or any other~~
32 ~~ordinance or resolution relating to the health and safety of~~
33 ~~occupants of buildings, by maintaining a substandard building, as~~
34 ~~specified in Section 17920.3 of the Health and Safety Code, the~~
35 ~~court, or judge thereof, in making an order granting probation, in~~
36 ~~addition to any other orders, may order the defendant placed under~~
37 ~~house confinement, or may order the defendant to serve both a~~
38 ~~term of imprisonment in the county jail and to be placed under~~
39 ~~house confinement.~~

1 This section only applies to violations involving a dwelling unit
2 occupied by persons specified in subdivision (a) of Section 1940
3 of the Civil Code who are not excluded by subdivision (b) of that
4 section.

5 ~~(b) As used in this section, "house confinement" means~~
6 ~~confinement to a residence or location designated by the court and~~
7 ~~specified in the probation order.~~

8 ~~SEC. 79.~~

9 ~~SEC. 60.~~ Section 1203.1m of the Penal Code is repealed.

10 ~~SEC. 80.~~ Section 1203.4 of the Penal Code is amended to read:

11 ~~1203.4. (a) (1) If a defendant has fulfilled the conditions of~~
12 ~~probation for the entire period of probation, or has been discharged~~
13 ~~prior to the termination of the period of probation, or in any other~~
14 ~~case in which a court, in its discretion and the interests of justice,~~
15 ~~determines that a defendant should be granted the relief available~~
16 ~~under this section, the defendant shall, at any time after the~~
17 ~~termination of the period of probation, if the defendant is not then~~
18 ~~-serving a sentence for any offense, on probation for any offense,~~
19 ~~or charged with the commission of any offense, be permitted by~~
20 ~~the court to withdraw the plea of guilty or plea of nolo contendere~~
21 ~~and enter a plea of not guilty, or if the defendant has been convicted~~
22 ~~after a plea of not guilty, the court shall set aside the verdict of~~
23 ~~guilty and dismiss the accusations or information against the~~
24 ~~defendant and except as noted below, the defendant shall thereafter~~
25 ~~be released from all penalties and disabilities resulting from the~~
26 ~~offense of which the defendant has been convicted, except as~~
27 ~~provided in Section 13555 of the Vehicle Code. The probationer~~
28 ~~shall be informed, in the probation papers, of this right and~~
29 ~~privilege and the right, if any, to petition for a certificate of~~
30 ~~rehabilitation and pardon. The probationer may make the~~
31 ~~application and change of plea in person or by attorney, or by the~~
32 ~~probation officer authorized in writing. However, in any subsequent~~
33 ~~prosecution of the defendant for any other offense, the prior~~
34 ~~conviction may be pleaded and proved and shall have the same~~
35 ~~effect as if probation had not been granted or the accusation or~~
36 ~~information dismissed. The order shall state, and the probationer~~
37 ~~shall be informed, that the order does not relieve the probationer~~
38 ~~of the obligation to disclose the conviction in response to any direct~~
39 ~~question contained in any questionnaire or application for public~~

1 office, for licensure by any state or local agency, or for contracting
2 with the California State Lottery Commission.

3 ~~(2) Dismissal of an accusation or information pursuant to this
4 section does not permit a person to own, possess, or have in the
5 person's custody or control any firearm or prevent the person's
6 conviction under Chapter 2 (commencing with Section 29800) of
7 Division 9 of Title 4 of Part 6.~~

8 ~~(3) Dismissal of an accusation or information underlying a
9 conviction pursuant to this section does not permit a person
10 prohibited from holding public office as a result of that conviction
11 to hold public office.~~

12 ~~(4) This subdivision shall apply to all applications for relief
13 under this section which are filed on or after November 23, 1970.~~

14 ~~(b) Subdivision (a) of this section does not apply to any
15 misdemeanor that is within the provisions of Section 42002.1 of
16 the Vehicle Code, to any violation of subdivision (c) of Section
17 286, Section 288, subdivision (c) of Section 287 or of former
18 Section 288a, Section 288.5, subdivision (j) of Section 289, Section
19 311.1, 311.2, 311.3, or 311.11, or any felony conviction pursuant
20 to subdivision (d) of Section 261.5, or to any infraction.~~

21 ~~(c) (1) Except as provided in paragraph (2), subdivision (a)
22 does not apply to a person who receives a notice to appear or is
23 otherwise charged with a violation of an offense described in
24 subdivisions (a) to (c), inclusive, of Section 12810 of the Vehicle
25 Code.~~

26 ~~(2) If a defendant who was convicted of a violation listed in
27 paragraph (1) petitions the court, the court in its discretion and in
28 the interests of justice, may order the relief provided pursuant to
29 subdivision (a) to that defendant.~~

30 ~~(d) (1) Relief shall not be granted under this section unless the
31 prosecuting attorney has been given 15 days' notice of the petition
32 for relief. The probation officer shall notify the prosecuting attorney
33 when a petition is filed, pursuant to this section.~~

34 ~~(2) It shall be presumed that the prosecuting attorney has
35 received notice if proof of service is filed with the court.~~

36 ~~(c) If, after receiving notice pursuant to subdivision (d), the
37 prosecuting attorney fails to appear and object to a petition for
38 dismissal, the prosecuting attorney may not move to set aside or
39 otherwise appeal the grant of that petition.~~

1 (f) Notwithstanding the above provisions or any other provision
2 of law, the Governor shall have the right to pardon a person
3 convicted of a violation of subdivision (e) of Section 286, Section
4 288, subdivision (e) of Section 287 or of former Section 288a;
5 Section 288.5, or subdivision (j) of Section 289, if there are
6 extraordinary circumstances.

7 SEC. 81. Section 1203.4a of the Penal Code is amended to
8 read:

9 1203.4a. (a) ~~Every defendant convicted of a misdemeanor and
10 not granted probation, and every defendant convicted of an
11 infraction shall, at any time after the lapse of one year from the
12 date of pronouncement of judgment, if the defendant has fully
13 complied with and performed the sentence of the court, is not then
14 serving a sentence for any offense and is not under charge of
15 commission of any crime, and has, since the pronouncement of
16 judgment, lived an honest and upright life and has conformed to
17 and obeyed the laws of the land, be permitted by the court to
18 withdraw the plea of guilty or nolo contendere and enter a plea of
19 not guilty; or if the defendant has been convicted after a plea of
20 not guilty, the court shall set aside the verdict of guilty; and in
21 either case the court shall thereupon dismiss the accusatory
22 pleading against the defendant, who shall thereafter be released
23 from all penalties and disabilities resulting from the offense of
24 which the defendant has been convicted, except as provided in
25 Chapter 3 (commencing with Section 29900) of Division 9 of Title
26 4 of Part 6 of this code or Section 13555 of the Vehicle Code.~~

27 (b) ~~If a defendant does not satisfy all the requirements of
28 subdivision (a), after a lapse of one year from the date of
29 pronouncement of judgment, a court, in its discretion and in the
30 interests of justice, may grant the relief available pursuant to
31 subdivision (a) to a defendant convicted of an infraction, or of a
32 misdemeanor and not granted probation, or both, if the defendant
33 has fully complied with and performed the sentence of the court,
34 is not then serving a sentence for any offense, and is not under
35 charge of commission of any crime.~~

36 (c) (1) ~~The defendant shall be informed of the provisions of
37 this section, either orally or in writing, at the time the defendant
38 is sentenced. The defendant may make an application and change
39 of plea in person or by attorney, or by the probation officer
40 authorized in writing, provided that, in any subsequent prosecution~~

1 of the defendant for any other offense, the prior conviction may
2 be pleaded and proved and shall have the same effect as if relief
3 had not been granted pursuant to this section.

4 (2) Dismissal of an accusatory pleading pursuant to this section
5 does not permit a person to own, possess, or have in the person's
6 custody or control any firearm or prevent the person's conviction
7 under Chapter 2 (commencing with Section 29800) of Division 9
8 of Title 4 of Part 6.

9 (3) Dismissal of an accusatory pleading underlying a conviction
10 pursuant to this section does not permit a person prohibited from
11 holding public office as a result of that conviction to hold public
12 office.

13 (d) This section applies to any conviction specified in
14 subdivision (a) or (b) that occurred before, as well as those
15 occurring after, the effective date of this section, except that this
16 section does not apply to the following:

17 (1) A misdemeanor violation of subdivision (c) of Section 288.

18 (2) Any misdemeanor falling within the provisions of Section
19 42002.1 of the Vehicle Code.

20 (3) Any infraction falling within the provisions of Section 42001
21 of the Vehicle Code.

22 (e) A petition for dismissal of an infraction pursuant to this
23 section shall be by written declaration, except upon a showing of
24 compelling need. Dismissal of an infraction shall not be granted
25 under this section unless the prosecuting attorney has been given
26 at least 15 days' notice of the petition for dismissal. It shall be
27 presumed that the prosecuting attorney has received notice if proof
28 of service is filed with the court.

29 (f) Any determination of amount made by a court under this
30 section shall be valid only if either (1) made under procedures
31 adopted by the Judicial Council or (2) approved by the Judicial
32 Council.

33 SEC. 82. Section 1203.41 of the Penal Code is amended to
34 read:

35 1203.41. (a) If a defendant is sentenced pursuant to paragraph
36 (5) of subdivision (h) of Section 1170, the court, in its discretion
37 and in the interests of justice, may order the following relief,
38 subject to the conditions of subdivision (b):

39 (1) The court may permit the defendant to withdraw the plea of
40 guilty or plea of nolo contendere and enter a plea of not guilty, or,

1 if the defendant has been convicted after a plea of not guilty, the
2 court shall set aside the verdict of guilty, and, in either case, the
3 court shall thereupon dismiss the accusations or information against
4 the defendant and the defendant shall thereafter be released from
5 all penalties and disabilities resulting from the offense of which
6 the defendant has been convicted, except as provided in Section
7 13555 of the Vehicle Code.

8 (2) The relief available under this section may be granted only
9 after the lapse of one year following the defendant's completion
10 of the sentence, if the sentence was imposed pursuant to
11 subparagraph (B) of paragraph (5) of subdivision (h) of Section
12 1170, or after the lapse of two years following the defendant's
13 completion of the sentence, if the sentence was imposed pursuant
14 to subparagraph (A) of paragraph (5) of subdivision (h) of Section
15 1170.

16 (3) The relief available under this section may be granted only
17 if the defendant is not under supervision pursuant to subparagraph
18 (B) of paragraph (5) of subdivision (h) of Section 1170, and is not
19 serving a sentence for, on probation for, or charged with the
20 commission of any offense.

21 (4) The defendant shall be informed, either orally or in writing,
22 of the provisions of this section and of the right, if any, to petition
23 for a certificate of rehabilitation and pardon at the time the
24 defendant is sentenced.

25 (5) The defendant may make the application and change of plea
26 in person or by attorney, or by a probation officer authorized in
27 writing.

28 (b) Relief granted pursuant to subdivision (a) is subject to the
29 following conditions:

30 (1) In any subsequent prosecution of the defendant for any other
31 offense, the prior conviction may be pleaded and proved and shall
32 have the same effect as if the accusation or information had not
33 been dismissed.

34 (2) The order shall state, and the defendant shall be informed,
35 that the order does not relieve the defendant of the obligation to
36 disclose the conviction in response to any direct question contained
37 in any questionnaire or application for public office, for licensure
38 by any state or local agency, or for contracting with the California
39 State Lottery Commission.

1 ~~(3) Dismissal of an accusation or information pursuant to this~~
2 ~~section does not permit a person to own, possess, or have in the~~
3 ~~person's custody or control any firearm or prevent the person's~~
4 ~~conviction under Chapter 2 (commencing with Section 29800) of~~
5 ~~Division 9 of Title 4 of Part 6.~~

6 ~~(4) Dismissal of an accusation or information underlying a~~
7 ~~conviction pursuant to this section does not permit a person~~
8 ~~prohibited from holding public office as a result of that conviction~~
9 ~~to hold public office.~~

10 ~~(e) This section applies to any conviction specified in~~
11 ~~subdivision (a) that occurred before, on, or after January 1, 2014.~~

12 ~~(d) (1) Relief shall not be granted under this section unless the~~
13 ~~prosecuting attorney has been given 15 days' notice of the petition~~
14 ~~for relief. The probation officer shall notify the prosecuting attorney~~
15 ~~when a petition is filed, pursuant to this section.~~

16 ~~(2) It shall be presumed that the prosecuting attorney has~~
17 ~~received notice if proof of service is filed with the court.~~

18 ~~(e) If, after receiving notice pursuant to subdivision (d), the~~
19 ~~prosecuting attorney fails to appear and object to a petition for~~
20 ~~dismissal, the prosecuting attorney may not move to set aside or~~
21 ~~otherwise appeal the grant of that petition.~~

22 ~~SEC. 83. Section 1203.42 of the Penal Code is amended to~~
23 ~~read:~~

24 ~~1203.42. (a) If a defendant was sentenced prior to the~~
25 ~~implementation of the 2011 Realignment Legislation for a crime~~
26 ~~for which the defendant would otherwise have been eligible for~~
27 ~~sentencing pursuant to subdivision (h) of Section 1170, the court,~~
28 ~~in its discretion and in the interests of justice, may order the~~
29 ~~following relief, subject to the conditions of subdivision (b):~~

30 ~~(1) The court may permit the defendant to withdraw the plea of~~
31 ~~guilty or plea of nolo contendere and enter a plea of not guilty, or,~~
32 ~~if the defendant has been convicted after a plea of not guilty, the~~
33 ~~court shall set aside the verdict of guilty, and, in either case, the~~
34 ~~court shall thereupon dismiss the accusations or information against~~
35 ~~the defendant and the defendant shall thereafter be released from~~
36 ~~all penalties and disabilities resulting from the offense of which~~
37 ~~the defendant has been convicted, except as provided in Section~~
38 ~~13555 of the Vehicle Code.~~

1 ~~(2) The relief available under this section may be granted only~~
2 ~~after the lapse of two years following the defendant's completion~~
3 ~~of the sentence.~~

4 ~~(3) The relief available under this section may be granted only~~
5 ~~if the defendant is not under supervised release, and is not serving~~
6 ~~a sentence for, on probation for, or charged with the commission~~
7 ~~of any offense.~~

8 ~~(4) The defendant may make the application and change of plea~~
9 ~~in person or by attorney, or by a probation officer authorized in~~
10 ~~writing.~~

11 ~~(b) Relief granted pursuant to subdivision (a) is subject to the~~
12 ~~following conditions:~~

13 ~~(1) In any subsequent prosecution of the defendant for any other~~
14 ~~offense, the prior conviction may be pleaded and proved and shall~~
15 ~~have the same effect as if the accusation or information had not~~
16 ~~been dismissed.~~

17 ~~(2) The order shall state, and the defendant shall be informed,~~
18 ~~that the order does not relieve the defendant of the obligation to~~
19 ~~disclose the conviction in response to any direct question contained~~
20 ~~in any questionnaire or application for public office, for licensure~~
21 ~~by any state or local agency, or for contracting with the California~~
22 ~~State Lottery Commission.~~

23 ~~(3) Dismissal of an accusation or information pursuant to this~~
24 ~~section does not permit a person to own, possess, or have in the~~
25 ~~person's custody or control any firearm or prevent the person's~~
26 ~~conviction under Chapter 2 (commencing with Section 29800) of~~
27 ~~Division 9 of Title 4 of Part 6.~~

28 ~~(4) Dismissal of an accusation or information underlying a~~
29 ~~conviction pursuant to this section does not permit a person~~
30 ~~prohibited from holding public office as a result of that conviction~~
31 ~~to hold public office.~~

32 ~~(c) (1) Relief shall not be granted under this section unless the~~
33 ~~prosecuting attorney has been given 15 days' notice of the petition~~
34 ~~for relief. The probation officer shall notify the prosecuting attorney~~
35 ~~when a petition is filed, pursuant to this section.~~

36 ~~(2) It shall be presumed that the prosecuting attorney has~~
37 ~~received notice if proof of service is filed with the court.~~

38 ~~(d) If, after receiving notice pursuant to subdivision (c), the~~
39 ~~prosecuting attorney fails to appear and object to a petition for~~

1 dismissal, the prosecuting attorney may not move to set aside or
2 otherwise appeal the grant of that petition.

3 SEC. 84. Section 1203.45 of the Penal Code is amended to
4 read:

5 1203.45. (a) In a case in which a person was under 18 years
6 of age at the time of commission of a misdemeanor and is eligible
7 for, or has previously received, the relief provided by Section
8 1203.4 or 1203.4a, that person, in a proceeding under Section
9 1203.4 or 1203.4a, or a separate proceeding, may petition the court
10 for an order sealing the record of conviction and other official
11 records in the case, including records of arrests resulting in the
12 criminal proceeding and records relating to other offenses charged
13 in the accusatory pleading, whether the defendant was acquitted
14 or charges were dismissed. If the court finds that the person was
15 under 18 years of age at the time of the commission of the
16 misdemeanor, and is eligible for relief under Section 1203.4 or
17 1203.4a or has previously received that relief, it may issue its order
18 granting the relief prayed for. Thereafter the conviction, arrest, or
19 other proceeding shall be deemed not to have occurred, and the
20 petitioner may answer accordingly any question relating to their
21 occurrence.

22 (b) This section applies to convictions that occurred before, as
23 well as those that occur after, the effective date of this section.

24 (c) This section shall not apply to offenses for which registration
25 is required under Section 290, to violations of Division 10
26 (commencing with Section 11000) of the Health and Safety Code,
27 or to misdemeanor violations of the Vehicle Code relating to
28 operation of a vehicle or of a local ordinance relating to operation,
29 standing, stopping, or parking of a motor vehicle.

30 (d) This section does not apply to a person convicted of more
31 than one offense, whether the second or additional convictions
32 occurred in the same action in which the conviction as to which
33 relief is sought occurred or in another action, except in the
34 following cases:

35 (1) One of the offenses includes the other or others.

36 (2) The other conviction or convictions were for the following:

37 (A) Misdemeanor violations of Chapters 1 (commencing with
38 Section 21000) to 9 (commencing with Section 22500), inclusive,
39 Chapter 12 (commencing with Section 23100), or Chapter 13
40 (commencing with Section 23250) of Division 11 of the Vehicle

1 Code, other than Section 23103, 23104, 23105, 23152, 23153, or
2 23220.

3 ~~(B) Violation of a local ordinance relating to the operation,
4 stopping, standing, or parking of a motor vehicle.~~

5 ~~(3) The other conviction or convictions consisted of any
6 combination of paragraphs (1) and (2).~~

7 ~~(c) This section shall apply in a case in which a person was
8 under 21 years of age at the time of the commission of an offense
9 as to which this section is made applicable if that offense was
10 committed prior to March 7, 1973.~~

11 ~~(f) In an action or proceeding based upon defamation, a court,
12 upon a showing of good cause, may order the records sealed under
13 this section to be opened and admitted into evidence. The records
14 shall be confidential and shall be available for inspection only by
15 the court, jury, parties, counsel for the parties, and any other person
16 who is authorized by the court to inspect them. Upon the judgment
17 in the action or proceeding becoming final, the court shall order
18 the records sealed.~~

19 ~~SEC. 85.~~

20 *SEC. 61.* Section 1203.9 of the Penal Code is amended to read:

21 1203.9. (a) (1) Except as provided in paragraph (3), whenever
22 a person is released on probation or mandatory supervision, the
23 court, upon noticed motion, shall transfer the case to the superior
24 court in any other county in which the person resides permanently
25 with the stated intention to remain for the duration of probation or
26 mandatory supervision, unless the transferring court determines
27 that the transfer would be inappropriate and states its reasons on
28 the record.

29 (2) Upon notice of the motion for transfer, the court of the
30 proposed receiving county may provide comments for the record
31 regarding the proposed transfer, following procedures set forth in
32 rules of court developed by the Judicial Council for this purpose,
33 pursuant to subdivision (f). The court and the probation department
34 shall give the matter of investigating those transfers precedence
35 over all actions or proceedings therein, except actions or
36 proceedings to which special precedence is given by law, to the
37 end that all those transfers shall be completed expeditiously.

38 (3) If victim restitution was ordered as a condition of probation
39 or mandatory supervision, the transferring court shall determine
40 the amount of restitution before the transfer unless the court finds

1 that the determination cannot be made within a reasonable time
2 from when the motion for transfer is made. If a case is transferred
3 without a determination of the amount of restitution, the
4 transferring court shall complete the determination as soon as
5 practicable. In all other aspects, except as provided in subdivisions
6 (d) and (e), the court of the receiving county shall have full
7 jurisdiction over the matter upon transfer as provided in subdivision
8 (b).

9 (b) The court of the receiving county shall accept the entire
10 jurisdiction over the case effective the date that the transferring
11 court orders the transfer.

12 (c) The order of transfer shall contain an order committing the
13 probationer or supervised person to the care and custody of the
14 probation officer of the receiving county. A copy of the orders and
15 any probation reports shall be transmitted to the court and probation
16 officer of the receiving county within two weeks of the finding
17 that the person does permanently reside in or has permanently
18 moved to that county, and the receiving court shall have entire
19 jurisdiction over the case, except as provided in subdivisions (d)
20 and (e), with the like power to again request transfer of the case
21 whenever it seems proper.

22 (d) (1) Notwithstanding subdivision (b) and except as provided
23 in subdivision (e), if the transferring court has ordered the
24 defendant to pay fines, *fees*, forfeitures, penalties, assessments, or
25 restitution, the transfer order shall require that those and any other
26 amounts ordered by the transferring court that are still unpaid at
27 the time of transfer be paid by the defendant to the collection
28 program for the transferring court for proper distribution and
29 accounting once collected.

30 (2) The receiving court and receiving county probation
31 department ~~shall not~~ *may* impose additional local fees and ~~costs~~.
32 *costs as authorized, and shall notify the responsible collection*
33 *program for the transferring court of those changes.*

34 (3) *Any local fees imposed pursuant to paragraph (2) shall be*
35 *paid by the defendant to the collection program for the transferring*
36 *court which shall remit the additional fees and costs to the*
37 *receiving court for proper accounting and distribution.*

38 (e) (1) Upon approval of a transferring court, a receiving court
39 may elect to collect all of the court-ordered payments from a
40 defendant attributable to the case under which the defendant is

1 being supervised, provided, however, that the collection program
2 for the receiving court transmits the revenue collected to the
3 collection program for the transferring court for deposit,
4 accounting, and distribution. A collection program for the receiving
5 court shall not charge administrative fees for collections performed
6 for the collection program for the transferring ~~court.~~ *court without*
7 *a written agreement with the other program.*

8 (2) A collection program for a receiving court collecting funds
9 for a collection program for a transferring court pursuant to
10 paragraph (1) shall not report revenue owed or collected on behalf
11 of the collection program for the transferring court as part of those
12 collections required to be reported annually by the court to the
13 Judicial Council.

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

- 21 (1) Permanency of residence of the offender.
- 22 (2) Local programs available for the offender.
- 23 (3) Restitution orders and victim issues.

24 (g) The Judicial Council shall consider adoption of rules of court
25 as it deems appropriate to implement the collection, accounting,
26 and disbursement requirements of subdivisions (d) and (e).

27 ~~SEC. 86.~~

28 *SEC. 62.* Section 1205 of the Penal Code is amended to read:

29 1205. (a) A judgment that the defendant pay a fine, with or
30 without other punishment, may also direct that the defendant be
31 imprisoned until the fine is satisfied and may further direct that
32 the imprisonment begin at and continue after the expiration of any
33 imprisonment imposed as a part of the punishment or of any other
34 imprisonment to which the defendant may have been sentenced.
35 The judgment shall specify the term of imprisonment for
36 nonpayment of the fine, which shall not be more than one day for
37 each one hundred twenty-five dollars (\$125) of the base fine, nor
38 exceed the term for which the defendant may be sentenced to
39 imprisonment for the offense of which the defendant has been
40 convicted. A defendant held in custody for nonpayment of a fine

1 shall be entitled to credit on the fine for each day the defendant is
2 held in custody, at the rate specified in the judgment. When the
3 defendant has been convicted of a misdemeanor, a judgment that
4 the defendant pay a fine may also direct that the defendant pay the
5 fine within a limited time or in installments on specified dates, and
6 that in default of payment as stipulated be imprisoned in the
7 discretion of the court either until the defaulted installment is
8 satisfied or until the fine is satisfied in full; but unless the direction
9 is given in the judgment, the fine shall be payable. If an amount
10 of the base fine is not satisfied by jail credits, or by community
11 service, the penalties and assessments imposed on the base fine
12 shall be reduced by the percentage of the base fine that was
13 satisfied.

14 (b) Except as otherwise provided in case of fines imposed, as
15 a condition of probation, the defendant shall pay the fine to the
16 clerk of the court, or to the judge if there is no clerk, unless the
17 defendant is taken into custody for nonpayment of the fine, in
18 which event payments made while the defendant is in custody shall
19 be made to the officer who holds the defendant in custody, and all
20 amounts paid shall be paid over by the officer to the court that
21 rendered the judgment. The clerk shall report to the court every
22 default in payment of a fine or any part of that fine, or if there is
23 no clerk, the court shall take notice of the default. If time has been
24 given for payment of a fine or it has been made payable in
25 installments, the court shall, upon any default in payment,
26 immediately order the arrest of the defendant and order the
27 defendant to show cause why they should not be imprisoned until
28 the fine or installment is satisfied in full. If the fine or installment
29 is payable forthwith and it is not paid, the court shall, without
30 further proceedings, immediately commit the defendant to the
31 custody of the proper officer to be held in custody until the fine
32 or installment is satisfied in full.

33 (c) This section applies to any violation of any of the codes or
34 statutes of this state punishable by a fine or by a fine and
35 imprisonment.

36 (d) Nothing in this section shall be construed to prohibit the
37 clerk of the court, or the judge if there is no clerk, from turning
38 these accounts over to another county department or a collecting
39 agency for processing and collection.

1 (e) This section shall not apply to restitution fines and restitution
2 orders.

3 ~~SEC. 87.~~

4 *SEC. 63.* Section 1208 of the Penal Code is amended to read:

5 1208. (a) (1) The provisions of this section, insofar as they
6 relate to employment, shall be operative in any county in which
7 the board of supervisors by ordinance finds, on the basis of
8 employment conditions, the state of the county jail facilities, and
9 other pertinent circumstances, that the operation of this section,
10 insofar as it relates to employment, in that county is feasible. The
11 provisions of this section, insofar as they relate to job training,
12 shall be operative in any county in which the board of supervisors
13 by ordinance finds, on the basis of job training conditions, the state
14 of the county jail facilities, and other pertinent circumstances, that
15 the operation of this section, insofar as it relates to job training, in
16 that county is feasible. The provisions of this section, insofar as
17 they relate to education, shall be operative in any county in which
18 the board of supervisors by ordinance finds, on the basis of
19 education conditions, the state of the county jail facilities, and
20 other pertinent circumstances, that the operation of this section,
21 insofar as it relates to education, in that county is feasible. In any
22 ordinance the board shall prescribe whether the sheriff, the
23 probation officer, the director of the county department of
24 corrections, or the superintendent of a county industrial farm or
25 industrial road camp in the county shall perform the functions of
26 the work furlough administrator. The board may, in that ordinance,
27 provide for the performance of any or all functions of the work
28 furlough administrator by any one or more of those persons, acting
29 separately or jointly as to any of the functions; and may, by a
30 subsequent ordinance, revise the provisions within the authorization
31 of this section. The board of supervisors may also terminate the
32 operation of this section, either with respect to employment, job
33 training, or education in the county, if the board finds by ordinance
34 that because of changed circumstances, the operation of this
35 section, either with respect to employment, job training, or
36 education in that county, is no longer feasible.

37 (2) Notwithstanding any other law, the board of supervisors
38 may by ordinance designate a facility for confinement of prisoners
39 classified for the work furlough program and designate the work
40 furlough administrator as the custodian of the facility. The work

1 furlough administrator may operate the work furlough facility or,
2 with the approval of the board of supervisors, administer the work
3 furlough facility pursuant to written contracts with appropriate
4 public or private agencies or private entities. No agency or private
5 entity may operate a work furlough program or facility without a
6 written contract with the work furlough administrator, and no
7 agency or private entity entering into a written contract may itself
8 employ any person who is in the work furlough program. The
9 sheriff or director of the county department of corrections, as the
10 case may be, is authorized to transfer custody of prisoners to the
11 work furlough administrator to be confined in a facility for the
12 period during which they are in the work furlough program.

13 (3) All privately operated local work furlough facilities and
14 programs shall be under the jurisdiction of, and subject to the terms
15 of a written contract entered into with, the work furlough
16 administrator. Each contract shall include, but not be limited to, a
17 provision whereby the private agency or entity agrees to operate
18 in compliance with all appropriate state and local building, zoning,
19 health, safety, and fire statutes, ordinances, and regulations and
20 the minimum jail standards for Type IV facilities as established
21 by regulations adopted by the Board of State and Community
22 Corrections. The private agency or entity shall select and train its
23 personnel in accordance with selection and training requirements
24 adopted by the Board of State and Community Corrections as set
25 forth in Subchapter 1 (commencing with Section 100) of Chapter
26 1 of Division 1 of Title 15 of the California Code of Regulations.
27 Failure to comply with the appropriate health, safety, and fire laws
28 or minimum jail standards adopted by the board may be cause for
29 termination of the contract. Upon discovery of a failure to comply
30 with these requirements, the work furlough administrator shall
31 notify the privately operated program director that the contract
32 may be canceled if the specified deficiencies are not corrected
33 within 60 days.

34 (4) All private work furlough facilities and programs shall be
35 inspected biennially by the Board of State and Community
36 Corrections unless the work furlough administrator requests an
37 earlier inspection pursuant to Section 6031.1. Each private agency
38 or entity shall pay a fee to the Board of State and Community
39 Corrections commensurate with the cost of those inspections and

1 a fee commensurate with the cost of the initial review of the
2 facility.

3 (b) When a person is convicted and sentenced to the county jail,
4 or is imprisoned in the county jail for nonpayment of a fine, for
5 contempt, or as a condition of probation for any criminal offense,
6 the work furlough administrator may, if the administrator concludes
7 that the person is a fit subject to continue in the person's regular
8 employment, direct that the person be permitted to continue in that
9 employment, if that is compatible with the requirements of
10 subdivision (c), or may authorize the person to secure employment
11 for themselves, unless the court at the time of sentencing or
12 committing has ordered that the person not be granted work
13 furloughs. The work furlough administrator may, if the
14 administrator concludes that the person is a fit subject to continue
15 in the person's job training program, direct that the person be
16 permitted to continue in that job training program, if that is
17 compatible with the requirements of subdivision (c), or may
18 authorize the person to secure local job training for themselves,
19 unless the court at the time of sentencing has ordered that person
20 not be granted work furloughs. The work furlough administrator
21 may, if the administrator concludes that the person is a fit subject
22 to continue in the person's regular educational program, direct that
23 the person be permitted to continue in that educational program,
24 if that is compatible with the requirements of subdivision (c), or
25 may authorize the person to secure education for themselves, unless
26 the court at the time of sentencing has ordered that person not be
27 granted work furloughs.

28 (c) If the work furlough administrator so directs that the prisoner
29 be permitted to continue in the prisoner's regular employment, job
30 training, or educational program, the administrator shall arrange
31 for a continuation of that employment or for that job training or
32 education, so far as possible without interruption. If the prisoner
33 does not have regular employment or a regular job training or
34 educational program, and the administrator has authorized the
35 prisoner to secure employment, job training, or education for
36 themselves, the prisoner may do so, and the administrator may
37 assist the prisoner in doing so. Any employment, job training, or
38 education so secured shall be suitable for the prisoner. The
39 employment, and the job training or educational program if it
40 includes earnings by the prisoner, shall be at a wage at least as

1 high as the prevailing wage for similar work in the area where the
2 work is performed and in accordance with the prevailing working
3 conditions in that area. In no event may any employment, job
4 training, or educational program involving earnings by the prisoner
5 be permitted where there is a labor dispute in the establishment in
6 which the prisoner is, or is to be, employed, trained, or educated.

7 (d) (1) Whenever the prisoner is not employed or being trained
8 or educated and between the hours or periods of employment,
9 training, or education, the prisoner shall be confined in the facility
10 designated by the board of supervisors for work furlough
11 confinement unless the work furlough administrator directs
12 otherwise. If the prisoner is injured during a period of employment,
13 job training, or education, the work furlough administrator shall
14 have the authority to release the prisoner from the facility for
15 continued medical treatment by private physicians or at medical
16 facilities at the expense of the employer, workers' compensation
17 insurer, or the prisoner. The release shall not be construed as
18 assumption of liability by the county or work furlough
19 administrator for medical treatment obtained.

20 (2) The work furlough administrator may release any prisoner
21 classified for the work furlough program for a period not to exceed
22 72 hours for medical, dental, or psychiatric care, or for family
23 emergencies or pressing business which would result in severe
24 hardship if the release were not granted, or to attend those activities
25 as the administrator deems may effectively promote the prisoner's
26 successful return to the community, including, but not limited to,
27 an attempt to secure housing, employment, entry into educational
28 programs, or participation in community programs.

29 (e) The earnings of the prisoner may be collected by the work
30 furlough administrator, and it shall be the duty of the prisoner's
31 employer to transmit the wages to the administrator at the latter's
32 request. Earnings levied upon pursuant to writ of execution or in
33 other lawful manner shall not be transmitted to the administrator.
34 If the administrator has requested transmittal of earnings prior to
35 levy, that request shall have priority. In a case in which the
36 functions of the administrator are performed by a sheriff, and the
37 sheriff receives a writ of execution for the earnings of a prisoner
38 subject to this section but has not yet requested transmittal of the
39 prisoner's earnings pursuant to this section, the sheriff shall first
40 levy on the earnings pursuant to the writ. When an employer or

1 educator transmits earnings to the administrator pursuant to this
2 subdivision, the sheriff shall have no liability to the prisoner for
3 those earnings. From the earnings the administrator shall pay the
4 prisoner's board and personal expenses, both inside and outside
5 the jail, and shall deduct so much of the costs of administration of
6 this section as is allocable to the prisoner or if the prisoner is unable
7 to pay that sum, a lesser sum as is reasonable, and, in an amount
8 determined by the administrator, shall pay the support of the
9 prisoner's dependents, if any. If sufficient funds are available after
10 making the foregoing payments, the administrator may, with the
11 consent of the prisoner, pay, in whole or in part, the preexisting
12 debts of the prisoner. Any balance shall be retained until the
13 prisoner's discharge. Upon discharge the balance shall be paid to
14 the prisoner.

15 (f) The prisoner shall be eligible for time credits pursuant to
16 Sections 4018 and 4019.

17 (g) If the prisoner violates the conditions laid down for the
18 prisoner's conduct, custody, job training, education, or
19 employment, the work furlough administrator may order the
20 balance of the prisoner's sentence to be spent in actual confinement.

21 (h) Willful failure of the prisoner to return to the place of
22 confinement not later than the expiration of any period during
23 which the prisoner is authorized to be away from the place of
24 confinement pursuant to this section is punishable as provided in
25 Section 4532.

26 (i) The court may recommend or refer a person to the work
27 furlough administrator for consideration for placement in the work
28 furlough program or a particular work furlough facility. The
29 recommendation or referral of the court shall be given great weight
30 in the determination of acceptance or denial for placement in the
31 work furlough program or a particular work furlough facility.

32 (j) As used in this section, the following definitions apply:

33 (1) "Education" includes vocational and educational training
34 and counseling, and psychological, drug abuse, alcoholic, and
35 other rehabilitative counseling.

36 (2) "Educator" includes a person or institution providing that
37 training or counseling.

38 (3) "Employment" includes care of children, including the
39 daytime care of children of the prisoner.

1 (4) "Job training" may include, but shall not be limited to, job
2 training assistance.

3 (k) This section shall be known and may be cited as the "Cobey
4 Work Furlough Law."

5 ~~SEC. 88.~~

6 *SEC. 64.* Section 1208.2 of the Penal Code is amended to read:

7 1208.2. (a) (1) This section shall apply to individuals
8 authorized to participate in a work furlough program pursuant to
9 Section 1208, or to individuals authorized to participate in an
10 electronic home detention program pursuant to Section 1203.016
11 or 1203.018, or to individuals authorized to participate in a county
12 parole program pursuant to Article 3.5 (commencing with Section
13 3074) of Chapter 8 of Title 1 of Part 3.

14 (2) As used in this section, as appropriate, "administrator" means
15 the sheriff, probation officer, director of the county department of
16 corrections, or county parole administrator.

17 (b) (1) A board of supervisors that implements programs
18 identified in paragraph (1) of subdivision (a) shall not impose a
19 program administrative fee.

20 (2) With regard to a privately operated electronic home detention
21 program pursuant to Section 1203.016 or 1203.018, the limitation,
22 described in paragraph (1), in prescribing a program administrative
23 fee and application fee shall not apply.

24 (c) In all circumstances where a county board of supervisors
25 has approved a program administrator, as described in Section
26 1203.016, 1203.018, or 1208, to enter into a contract with a private
27 agency or entity to provide specified program services, the program
28 administrator shall ensure that the provisions of this section are
29 contained within any contractual agreement for this purpose. All
30 privately operated home detention programs shall comply with all
31 appropriate, applicable ordinances and regulations specified in
32 subdivision (a) of Section 1208.

33 ~~SEC. 89.~~

34 *SEC. 65.* Section 1208.3 of the Penal Code is amended to read:

35 1208.3. The administrator is not prohibited from verifying any
36 of the following:

37 (a) That the prisoner is receiving wages at a rate of pay not less
38 than the prevailing minimum wage requirement as provided for
39 in subdivision (c) of Section 1208.

1 (b) That the prisoner is working a specified minimum number
2 of required hours.

3 (c) That the prisoner is covered under an appropriate or suitable
4 workers' compensation insurance plan as may otherwise be
5 required by law.

6 The purpose of the verification shall be solely to ~~insure~~ *ensure*
7 that the prisoner's employment rights are being protected, that the
8 prisoner is not being taken advantage of, that the job is suitable
9 for the prisoner, and that the prisoner is making every reasonable
10 effort to make a productive contribution to the community.

11 ~~SEC. 90. Section 1209 of the Penal Code is repealed.~~

12 ~~SEC. 91. Section 1210.1 of the Penal Code is amended to read:~~

13 ~~1210.1. (a) Notwithstanding any other provision of law, and~~
14 ~~except as provided in subdivision (b), any person convicted of a~~
15 ~~nonviolent drug possession offense shall receive probation. As a~~
16 ~~condition of probation the court shall require participation in and~~
17 ~~completion of an appropriate drug treatment program. The court~~
18 ~~shall impose appropriate drug testing as a condition of probation.~~
19 ~~The court may also impose, as a condition of probation,~~
20 ~~participation in vocational training, family counseling, literacy~~
21 ~~training, and community service. A court may not impose~~
22 ~~incarceration as an additional condition of probation. Aside from~~
23 ~~the limitations imposed in this subdivision, the trial court is not~~
24 ~~otherwise limited in the type of probation conditions it may impose.~~
25 ~~Probation shall be imposed by suspending the imposition of~~
26 ~~sentence. No person shall be denied the opportunity to benefit from~~
27 ~~the provisions of the Substance Abuse and Crime Prevention Act~~
28 ~~of 2000 based solely upon evidence of a co-occurring psychiatric~~
29 ~~or developmental disorder. To the greatest extent possible, any~~
30 ~~person who is convicted of, and placed on probation pursuant to~~
31 ~~this section for a nonviolent drug possession offense shall be~~
32 ~~monitored by the court through the use of a dedicated court~~
33 ~~calendar and the incorporation of a collaborative court model of~~
34 ~~oversight that includes close collaboration with treatment providers~~
35 ~~and probation, drug testing commensurate with treatment needs,~~
36 ~~and supervision of progress through review hearings.~~

37 ~~(b) Subdivision (a) shall not apply to any of the following:~~

38 ~~(1) Any defendant who previously has been convicted of one~~
39 ~~or more violent or serious felonies as defined in subdivision (c) of~~
40 ~~Section 667.5 or subdivision (c) of Section 1192.7, respectively;~~

1 ~~unless the nonviolent drug possession offense occurred after a~~
2 ~~period of five years in which the defendant remained free of both~~
3 ~~prison custody and the commission of an offense that results in a~~
4 ~~felony conviction other than a nonviolent drug possession offense,~~
5 ~~or a misdemeanor conviction involving physical injury or the threat~~
6 ~~of physical injury to another person.~~

7 ~~(2) Any defendant who, in addition to one or more nonviolent~~
8 ~~drug possession offenses, has been convicted in the same~~
9 ~~proceeding of a misdemeanor not related to the use of drugs or~~
10 ~~any felony.~~

11 ~~(3) Any defendant who, while armed with a deadly weapon,~~
12 ~~with the intent to use the same as a deadly weapon, unlawfully~~
13 ~~possesses or is under the influence of any controlled substance~~
14 ~~identified in Section 11054, 11055, 11056, 11057, or 11058 of the~~
15 ~~Health and Safety Code.~~

16 ~~(4) Any defendant who refuses drug treatment as a condition~~
17 ~~of probation.~~

18 ~~(5) Any defendant who has two separate convictions for~~
19 ~~nonviolent drug possession offenses, has participated in two~~
20 ~~separate courses of drug treatment pursuant to subdivision (a), and~~
21 ~~is found by the court, by clear and convincing evidence, to be~~
22 ~~unamenable to any and all forms of available drug treatment, as~~
23 ~~defined in subdivision (b) of Section 1210. Notwithstanding any~~
24 ~~other provision of law, the trial court shall sentence that defendant~~
25 ~~to 30 days in jail.~~

26 ~~(e) (1) Any defendant who has previously been convicted of~~
27 ~~at least three non-drug-related felonies for which the defendant~~
28 ~~has served three separate prison terms within the meaning of~~
29 ~~subdivision (b) of Section 667.5 shall be presumed eligible for~~
30 ~~treatment under subdivision (a). The court may exclude the~~
31 ~~defendant from treatment under subdivision (a) where the court,~~
32 ~~pursuant to the motion of the prosecutor or its own motion, finds~~
33 ~~that the defendant poses a present danger to the safety of others~~
34 ~~and would not benefit from a drug treatment program. The court~~
35 ~~shall, on the record, state its findings, the reasons for those findings.~~

36 ~~(2) Any defendant who has previously been convicted of a~~
37 ~~misdemeanor or felony at least five times within the prior 30~~
38 ~~months shall be presumed to be eligible for treatment under~~
39 ~~subdivision (a). The court may exclude the defendant from~~
40 ~~treatment under subdivision (a) if the court, pursuant to the motion~~

1 of the prosecutor, or on its own motion, finds that the defendant
2 poses a present danger to the safety of others or would not benefit
3 from a drug treatment program. The court shall, on the record,
4 state its findings and the reasons for those findings.

5 (d) Within seven days of an order imposing probation under
6 subdivision (a), the probation department shall notify the drug
7 treatment provider designated to provide drug treatment under
8 subdivision (a). Within 30 days of receiving that notice, the
9 treatment provider shall prepare a treatment plan and forward it
10 to the probation department for distribution to the court and
11 counsel. The treatment provider shall provide to the probation
12 department standardized treatment progress reports, with minimum
13 data elements as determined by the department, including all drug
14 testing results. At a minimum, the reports shall be provided to the
15 court every 90 days, or more frequently, as the court directs.

16 (1) If at any point during the course of drug treatment the
17 treatment provider notifies the probation department and the court
18 that the defendant is unamenable to the drug treatment being
19 provided, but may be amenable to other drug treatments or related
20 programs, the probation department may move the court to modify
21 the terms of probation, or on its own motion, the court may modify
22 the terms of probation after a hearing to ensure that the defendant
23 receives the alternative drug treatment or program.

24 (2) If at any point during the course of drug treatment the
25 treatment provider notifies the probation department and the court
26 that the defendant is unamenable to the drug treatment provided
27 and all other forms of drug treatment programs pursuant to
28 subdivision (b) of Section 1210, the probation department may
29 move to revoke probation. At the revocation hearing, if it is proved
30 that the defendant is unamenable to all drug treatment programs
31 pursuant to subdivision (b) of Section 1210, the court may revoke
32 probation.

33 (3) Drug treatment services provided by subdivision (a) as a
34 required condition of probation may not exceed 12 months, unless
35 the court makes a finding supported by the record, that the
36 continuation of treatment services beyond 12 months is necessary
37 for drug treatment to be successful. If that finding is made, the
38 court may order up to two six-month extensions of treatment
39 services. The provision of treatment services under the Substance

1 ~~Abuse and Crime Prevention Act of 2000 shall not exceed 24~~
2 ~~months.~~

3 ~~(c) (1) At any time after completion of drug treatment and the~~
4 ~~terms of probation, the court shall conduct a hearing, and if the~~
5 ~~court finds that the defendant successfully completed drug~~
6 ~~treatment, and substantially complied with the conditions of~~
7 ~~probation, including refraining from the use of drugs after the~~
8 ~~completion of treatment, the conviction on which the probation~~
9 ~~was based shall be set aside and the court shall dismiss the~~
10 ~~indictment, complaint, or information against the defendant. In~~
11 ~~addition, except as provided in paragraphs (2) and (3), both the~~
12 ~~arrest and the conviction shall be deemed never to have occurred.~~
13 ~~The defendant may additionally petition the court for a dismissal~~
14 ~~of charges at any time after completion of the prescribed course~~
15 ~~of drug treatment. Except as provided in paragraph (2) or (3), the~~
16 ~~defendant shall thereafter be released from all penalties and~~
17 ~~disabilities resulting from the offense of which the defendant has~~
18 ~~been convicted.~~

19 ~~(2) Dismissal of an indictment, complaint, or information~~
20 ~~pursuant to paragraph (1) does not permit a person to own, possess,~~
21 ~~or have in the person's custody or control any firearm capable of~~
22 ~~being concealed upon the person or prevent the person's conviction~~
23 ~~under Chapter 2 (commencing with Section 29800) of Division 9~~
24 ~~of Title 4 of Part 6.~~

25 ~~(3) Except as provided below, after an indictment, complaint,~~
26 ~~or information is dismissed pursuant to paragraph (1), the defendant~~
27 ~~may indicate in response to any question concerning the~~
28 ~~defendant's prior criminal record that they were not arrested or~~
29 ~~convicted for the offense. Except as provided below, a record~~
30 ~~pertaining to an arrest or conviction resulting in successful~~
31 ~~completion of a drug treatment program under this section may~~
32 ~~not, without the defendant's consent, be used in any way that could~~
33 ~~result in the denial of any employment, benefit, license, or~~
34 ~~certificate.~~

35 ~~Regardless of the defendant's successful completion of drug~~
36 ~~treatment, the arrest and conviction on which the probation was~~
37 ~~based may be recorded by the Department of Justice and disclosed~~
38 ~~in response to any peace officer application request or any law~~
39 ~~enforcement inquiry. Dismissal of an information, complaint, or~~
40 ~~indictment under this section does not relieve a defendant of the~~

1 obligation to disclose the arrest and conviction in response to any
2 direct question contained in any questionnaire or application for
3 public office, for a position as a peace officer as defined in Section
4 830, for licensure by any state or local agency, for contracting with
5 the California State Lottery, or for purposes of serving on a jury.

6 (f) (1) If probation is revoked pursuant to the provisions of this
7 subdivision, the defendant may be incarcerated pursuant to
8 otherwise applicable law without regard to the provisions of this
9 section. The court may modify or revoke probation if the alleged
10 violation is proved.

11 (2) If a defendant receives probation under subdivision (a), and
12 violates that probation either by committing an offense that is not
13 a nonviolent drug possession offense, or by violating a
14 non-drug-related condition of probation, and the state moves to
15 revoke probation, the court may remand the defendant for a period
16 not exceeding 30 days during which time the court may receive
17 input from treatment, probation, the state, and the defendant, and
18 the court may conduct further hearings as it deems appropriate to
19 determine whether or not probation should be reinstated under this
20 section. If the court reinstates the defendant on probation, the court
21 may modify the treatment plan and any other terms of probation,
22 and continue the defendant in a treatment program under the
23 Substance Abuse and Crime Prevention Act of 2000. If the court
24 reinstates the defendant on probation, the court may, after receiving
25 input from the treatment provider and probation, if available,
26 intensify or alter the treatment plan under subdivision (a), and
27 impose sanctions, including jail sanctions not exceeding 30 days,
28 a tool to enhance treatment compliance.

29 (3) (A) If a defendant receives probation under subdivision (a),
30 and violates that probation either by committing a nonviolent drug
31 possession offense, or a misdemeanor for simple possession or use
32 of drugs or drug paraphernalia, being present where drugs are used,
33 or failure to register as a drug offender, or any activity similar to
34 those listed in subdivision (d) of Section 1210, or by violating a
35 drug-related condition of probation, and the state moves to revoke
36 probation, the court shall conduct a hearing to determine whether
37 probation shall be revoked. The trial court shall revoke probation
38 if the alleged probation violation is proved and the state proves by
39 a preponderance of the evidence that the defendant poses a danger
40 to the safety of others. If the court does not revoke probation, it

1 may intensify or alter the drug treatment plan and in addition, if
2 the violation does not involve the recent use of drugs as a
3 circumstance of the violation, including, but not limited to,
4 violations relating to failure to appear at treatment or court,
5 noncompliance with treatment, and failure to report for drug
6 testing, the court may impose sanctions including jail sanctions
7 that may not exceed 48 hours of continuous custody as a tool to
8 enhance treatment compliance and impose other changes in the
9 terms and conditions of probation. The court shall consider, among
10 other factors, the seriousness of the violation, previous treatment
11 compliance, employment, education, vocational training, medical
12 conditions, medical treatment, including narcotics replacement
13 treatment, and including the opinion of the defendant's licensed
14 and treating physician if immediately available and presented at
15 the hearing, child support obligations, and family responsibilities.
16 The court shall consider additional conditions of probation, which
17 may include, but are not limited to, community service and
18 supervised work programs. If one of the circumstances of the
19 violation involves recent drug use, as well as other circumstances
20 of violation, and the circumstance of recent drug use is
21 demonstrated to the court by satisfactory evidence and a finding
22 made on the record, the court may, after receiving input from
23 treatment and probation, if available, direct the defendant to enter
24 a licensed detoxification or residential treatment facility, and if
25 there is no bed immediately available in that type of facility, the
26 court may order that the defendant be confined in a county jail for
27 detoxification purposes only, if the jail offers detoxification
28 services, for a period not to exceed 10 days. The detoxification
29 services must provide narcotic replacement therapy for those
30 defendants presently actually receiving narcotic replacement
31 therapy.

32 (B) If a defendant receives probation under subdivision (a), and
33 for the second time violates that probation either by committing a
34 nonviolent drug possession offense, or a misdemeanor for simple
35 possession or use of drugs or drug paraphernalia, being present
36 where drugs are used, or failure to register as a drug offender, or
37 any activity similar to those listed in subdivision (d) of Section
38 1210, or by violating a drug-related condition of probation, and
39 the state moves to revoke probation, the court shall conduct a
40 hearing to determine whether probation shall be revoked. The trial

1 court shall revoke probation if the alleged probation violation is
2 proved and the state proves by a preponderance of the evidence
3 either that the defendant poses a danger to the safety of others or
4 is unamenable to drug treatment. In determining whether a
5 defendant is unamenable to drug treatment, the court may consider,
6 to the extent relevant, whether the defendant (i) has committed a
7 serious violation of rules at the drug treatment program, (ii) has
8 repeatedly committed violations of program rules that inhibit the
9 defendant's ability to function in the program, or (iii) has
10 continually refused to participate in the program or asked to be
11 removed from the program. If the court does not revoke probation,
12 it may intensify or alter the drug treatment plan, and may, in
13 addition, if the violation does not involve the recent use of drugs
14 as a circumstance of the violation, including, but not limited to,
15 violations relating to failure to appear at treatment or court,
16 noncompliance with treatment, and failure to report for drug
17 testing, impose sanctions including jail sanctions that may not
18 exceed 120 hours of continuous custody as a tool to enhance
19 treatment compliance and impose other changes in the terms and
20 conditions of probation. The court shall consider, among other
21 factors, the seriousness of the violation, previous treatment
22 compliance, employment, education, vocational training, medical
23 conditions, medical treatment, including narcotics replacement
24 treatment, and including the opinion of the defendant's licensed
25 and treating physician if immediately available and presented at
26 the hearing, child support obligations, and family responsibilities.
27 The court shall consider additional conditions of probation, which
28 may include, but are not limited to, community service and
29 supervised work programs. If one of the circumstances of the
30 violation involves recent drug use, as well as other circumstances
31 of violation, and the circumstance of recent drug use is
32 demonstrated to the court by satisfactory evidence and a finding
33 made on the record, the court may, after receiving input from
34 treatment and probation, if available, direct the defendant to enter
35 a licensed detoxification or residential treatment facility, and if
36 there is no bed immediately available in the facility, the court may
37 order that the defendant be confined in a county jail for
38 detoxification purposes only, if the jail offers detoxification
39 services, for a period not to exceed 10 days. Detoxification services

1 must provide narcotic replacement therapy for those defendants
2 presently actually receiving narcotic replacement therapy.

3 (C) If a defendant receives probation under subdivision (a), and
4 for the third or subsequent time violates that probation either by
5 committing a nonviolent drug possession offense, or by violating
6 a drug-related condition of probation, and the state moves for a
7 third or subsequent time to revoke probation, the court shall
8 conduct a hearing to determine whether probation shall be revoked.
9 If the alleged probation violation is proved, the defendant is not
10 eligible for continued probation under subdivision (a) unless the
11 court determines that the defendant is not a danger to the
12 community and would benefit from further treatment under
13 subdivision (a). The court may then either intensify or alter the
14 treatment plan under subdivision (a) or transfer the defendant to
15 a highly structured drug court. If the court continues the defendant
16 in treatment under subdivision (a), or drug court, the court may
17 impose appropriate sanctions including jail sanctions as the court
18 deems appropriate.

19 (D) If a defendant on probation at the effective date of this act
20 for a nonviolent drug possession offense violates that probation
21 either by committing a nonviolent drug possession offense, or a
22 misdemeanor for simple possession or use of drugs or drug
23 paraphernalia, being present where drugs are used, or failure to
24 register as a drug offender, or any activity similar to those listed
25 in subdivision (d) of Section 1210, or by violating a drug-related
26 condition of probation, and the state moves to revoke probation,
27 the court shall conduct a hearing to determine whether probation
28 shall be revoked. The trial court shall revoke probation if the
29 alleged probation violation is proved and the state proves by a
30 preponderance of the evidence that the defendant poses a danger
31 to the safety of others. If the court does not revoke probation, it
32 may modify or alter the treatment plan, and in addition, if the
33 violation does not involve the recent use of drugs as a circumstance
34 of the violation, including, but not limited to, violations relating
35 to failure to appear at treatment or court, noncompliance with
36 treatment, and failure to report for drug testing, the court may
37 impose sanctions including jail sanctions that may not exceed 48
38 hours of continuous custody as a tool to enhance treatment
39 compliance and impose other changes in the terms and conditions
40 of probation. The court shall consider, among other factors, the

1 ~~seriousness of the violation, previous treatment compliance,~~
2 ~~employment, education, vocational training, medical conditions,~~
3 ~~medical treatment, including narcotics replacement treatment, and~~
4 ~~including the opinion of the defendant's licensed and treating~~
5 ~~physician if immediately available and presented at the hearing,~~
6 ~~child support obligations, and family responsibilities. The court~~
7 ~~shall consider additional conditions of probation, which may~~
8 ~~include, but are not limited to, community service and supervised~~
9 ~~work programs. If one of the circumstances of the violation~~
10 ~~involves recent drug use, as well as other circumstances of~~
11 ~~violation, and the circumstance of recent drug use is demonstrated~~
12 ~~to the court by satisfactory evidence and a finding made on the~~
13 ~~record, the court may, after receiving input from treatment and~~
14 ~~probation, if available, direct the defendant to enter a licensed~~
15 ~~detoxification or residential treatment facility, and if there is no~~
16 ~~bed immediately available in that type of facility, the court may~~
17 ~~order that the defendant be confined in a county jail for~~
18 ~~detoxification purposes only, if the jail offers detoxification~~
19 ~~services, for a period not to exceed 10 days. The detoxification~~
20 ~~services must provide narcotic replacement therapy for those~~
21 ~~defendants presently actually receiving narcotic replacement~~
22 ~~therapy.~~

23 (E) ~~If a defendant on probation at the effective date of this act~~
24 ~~for a nonviolent drug possession offense violates that probation a~~
25 ~~second time either by committing a nonviolent drug possession~~
26 ~~offense, or a misdemeanor for simple possession or use of drugs~~
27 ~~or drug paraphernalia, being present where drugs are used, or~~
28 ~~failure to register as a drug offender, or any activity similar to~~
29 ~~those listed in subdivision (d) of Section 1210, or by violating a~~
30 ~~drug-related condition of probation, and the state moves for a~~
31 ~~second time to revoke probation, the court shall conduct a hearing~~
32 ~~to determine whether probation shall be revoked. The trial court~~
33 ~~shall revoke probation if the alleged probation violation is proved~~
34 ~~and the state proves by a preponderance of the evidence either that~~
35 ~~the defendant poses a danger to the safety of others or that the~~
36 ~~defendant is unamenable to drug treatment. If the court does not~~
37 ~~revoke probation, it may modify or alter the treatment plan, and~~
38 ~~in addition, if the violation does not involve the recent use of drugs~~
39 ~~as a circumstance of the violation, including, but not limited to,~~
40 ~~violations relating to failure to appear at treatment or court,~~

1 ~~noncompliance with treatment, and failure to report for drug~~
2 ~~testing, the court may impose sanctions including jail sanctions~~
3 ~~that may not exceed 120 hours of continuous custody as a tool to~~
4 ~~enhance treatment compliance and impose other changes in the~~
5 ~~terms and conditions of probation. The court shall consider, among~~
6 ~~other factors, the seriousness of the violation, previous treatment~~
7 ~~compliance, employment, education, vocational training, medical~~
8 ~~conditions, medical treatment including narcotics replacement~~
9 ~~treatment, and including the opinion of the defendant's licensed~~
10 ~~and treating physician if immediately available and presented at~~
11 ~~the hearing, child support obligations, and family responsibilities.~~
12 ~~The court shall consider additional conditions of probation, which~~
13 ~~may include, but are not limited to, community service and~~
14 ~~supervised work programs. If one of the circumstances of the~~
15 ~~violation involves recent drug use, as well as other circumstances~~
16 ~~of violation, and the circumstance of recent drug use is~~
17 ~~demonstrated to the court by satisfactory evidence and a finding~~
18 ~~made on the record, the court may, after receiving input from~~
19 ~~treatment and probation, if available, direct the defendant to enter~~
20 ~~a licensed detoxification or residential treatment facility, and if~~
21 ~~there is no bed immediately available in that type of facility, the~~
22 ~~court may order that the defendant be confined in a county jail for~~
23 ~~detoxification purposes only, if the jail offers detoxification~~
24 ~~services, for a period not to exceed 10 days. The detoxification~~
25 ~~services must provide narcotic replacement therapy for those~~
26 ~~defendants presently actually receiving narcotic replacement~~
27 ~~therapy.~~

28 (F) ~~If a defendant on probation at the effective date of this act~~
29 ~~for a nonviolent drug offense violates that probation a third or~~
30 ~~subsequent time either by committing a nonviolent drug possession~~
31 ~~offense, or by violating a drug-related condition of probation, and~~
32 ~~the state moves for a third or subsequent time to revoke probation,~~
33 ~~the court shall conduct a hearing to determine whether probation~~
34 ~~shall be revoked. If the alleged probation violation is proved, the~~
35 ~~defendant is not eligible for continued probation under subdivision~~
36 ~~(a), unless the court determines that the defendant is not a danger~~
37 ~~to the community and would benefit from further treatment under~~
38 ~~subdivision (a). The court may then either intensify or alter the~~
39 ~~treatment plan under subdivision (a) or transfer the defendant to~~
40 ~~a highly structured drug court. If the court continues the defendant~~

1 in treatment under subdivision (a), or drug court, the court may
2 impose appropriate sanctions including jail sanctions.

3 ~~(g) The term "drug-related condition of probation" shall include~~
4 ~~a probationer's specific drug treatment regimen, employment,~~
5 ~~vocational training, educational programs, psychological~~
6 ~~counseling, and family counseling.~~

7 ~~SEC. 92.~~

8 *SEC. 66.* Section 1210.15 of the Penal Code is repealed.

9 ~~SEC. 93.~~

10 *SEC. 67.* Section 1211 of the Penal Code is amended to read:

11 1211. (a) In order to ensure the quality of drug diversion
12 programs provided pursuant to this chapter and Chapter 2.5
13 (commencing with Section 1000) of Title 6, and to expand the
14 availability of these programs, the county drug program
15 administrator in each county, in consultation with representatives
16 of the court and the county probation department, shall establish
17 minimum requirements and criteria for the successful completion
18 of drug diversion programs, which shall be approved by the county
19 board of supervisors. These minimum requirements shall include,
20 but not be limited to, all of the following:

21 (1) An initial assessment of each divertee, which may include
22 all of the following:

23 (A) Social, economic, and family background.

24 (B) Education.

25 (C) Vocational achievements.

26 (D) Criminal history.

27 (E) Medical history.

28 (F) Drug history and previous treatment.

29 (2) A minimum of 20 hours of either effective education or
30 counseling or any combination of both for each divertee.

31 (3) An exit conference which shall reflect the divertee's progress
32 during the divertee's participation in the program.

33 (b) The county drug program administrator shall implement a
34 certification procedure for drug diversion programs.

35 (c) The county drug program administrator shall recommend
36 for approval by the county board of supervisors programs pursuant
37 to this chapter. No program, regardless of how it is funded, may
38 be approved unless it meets the standards established by the
39 administrator, which shall include, but not be limited to, both of
40 the following:

1 (1) Guidelines and criteria for education and treatment services,
2 including standards of services which may include lectures, classes,
3 group discussions, and individual counseling. However, any class
4 or group discussion other than lectures shall not exceed 15 persons
5 at any one meeting.

6 (2) Established and approved supervision, either on a regular
7 or irregular basis, of the person for the purpose of evaluating the
8 person's progress.

9 ~~SEC. 94.~~

10 ~~SEC. 68.~~ Section 1214.1 of the Penal Code is repealed.

11 ~~SEC. 95.~~

12 ~~SEC. 69.~~ Section 1214.5 of the Penal Code is repealed.

13 ~~SEC. 96.~~ Section 1462.5 of the Penal Code is amended to read:

14 ~~1462.5. Each installment or partial payment of a fine, penalty,~~
15 ~~or forfeiture shall be prorated among the state and local shares~~
16 ~~according to the trial court revenue distribution guidelines~~
17 ~~established by the Controller pursuant to Section 71380 of the~~
18 ~~Government Code. In cases subject to Section 1463.18 of the Penal~~
19 ~~Code, proration shall not occur until the minimum amounts have~~
20 ~~been transferred to the Restitution Fund as provided in that section.~~

21 ~~SEC. 97.~~

22 ~~SEC. 70.~~ Section 1463 of the Penal Code is amended to read:

23 1463. All fines and forfeitures imposed and collected for crimes
24 shall be distributed in accordance with Section 1463.001.

25 The following definitions shall apply to terms used in this
26 chapter:

27 (a) "Arrest" means any law enforcement action, including
28 issuance of a notice to appear or notice of violation, which results
29 in a criminal charge.

30 (b) "City" includes any city, city and county, district, including
31 any enterprise special district, community service district, or
32 community service area engaged in police protection activities as
33 reported to the Controller for inclusion in the 1989-90 edition of
34 the Financial Transactions Report Concerning Special Districts
35 under the heading of Police Protection and Public Safety, authority,
36 or other local agency (other than a county) which employs persons
37 authorized to make arrests or to issue notices to appear or notices
38 of violation which may be filed in court.

39 (c) "City arrest" means an arrest by an employee of a city, or
40 by a California Highway Patrol officer within the limits of a city.

- 1 (d) "County" means the county in which the arrest took place.
- 2 (e) "County arrest" means an arrest by a California Highway
3 Patrol officer outside the limits of a city, or any arrest by a county
4 officer or by any other state officer.
- 5 (f) "Court" means the superior court or a juvenile forum
6 established under Section 257 of the Welfare and Institutions Code,
7 in which the case arising from the arrest is filed.
- 8 (g) "Division of moneys" means an allocation of base fine
9 proceeds between agencies as required by statute, including, but
10 not limited to, Sections 1463.003, 1463.9, 1463.23, and 1463.26
11 of this code, Sections 13001, 13002, and 13003 of the Fish and
12 Game Code, and Section 11502 of the Health and Safety Code.
- 13 (h) "Offense" means any infraction, misdemeanor, or felony,
14 and any act by a juvenile leading to an order to pay a financial
15 sanction by reason of the act being defined as an infraction,
16 misdemeanor, or felony, whether defined in this or any other code,
17 except any parking offense as defined in subdivision (i).
- 18 (i) "Parking offense" means any offense charged pursuant to
19 Article 3 (commencing with Section 40200) of Chapter 1 of
20 Division 17 of the Vehicle Code, including registration and
21 equipment offenses included on a notice of parking violation.
- 22 (j) "Penalty allocation" means the deposit of a specified part of
23 moneys to offset designated processing costs, as provided by
24 Section 1463.16 of this code and by Section 68090.8 of the
25 Government Code.
- 26 (k) "Total parking penalty" means the total sum to be collected
27 for a parking offense, whether as fine, forfeiture of bail, or payment
28 of penalty to the Department of Motor Vehicles (DMV). It may
29 include the following components:
- 30 (1) The base parking penalty as established pursuant to Section
31 40203.5 of the Vehicle Code.
- 32 (2) The DMV fees added upon the placement of a hold pursuant
33 to Section 40220 of the Vehicle Code.
- 34 (3) The surcharges required by Section 76000 of the Government
35 Code.
- 36 (4) The notice penalty added to the base parking penalty when
37 a notice of delinquent parking violations is given.
- 38 (l) "Total fine or forfeiture" means the total sum to be collected
39 upon a conviction, or the total amount of bail forfeited or deposited

1 as cash bail subject to forfeiture. It may include, but is not limited
2 to, the following components as specified for the particular offense:

3 (1) The “base fine” upon which the state penalty and additional
4 county penalty is calculated.

5 (2) The “county penalty” required by Section 76000 of the
6 Government Code.

7 (3) The “DNA penalty” required by Sections 76104.6 and
8 76104.7 of the Government Code.

9 (4) The “emergency medical services penalty” authorized by
10 Section 76000.5 of the Government Code.

11 (5) The “service charge” permitted by Section 853.7 of the Penal
12 Code.

13 (6) The “special penalty” dedicated for blood alcohol analysis,
14 alcohol program services, traumatic brain injury research, and
15 similar purposes.

16 (7) The “state penalty” required by Section 1464.

17 ~~SEC. 98. Section 1463.007 of the Penal Code is amended to~~
18 ~~read:~~

19 ~~1463.007. (a) Notwithstanding any other law, a county or court~~
20 ~~that operates a comprehensive collection program may deduct the~~
21 ~~costs of operating that program, excluding capital expenditures,~~
22 ~~from any revenues collected under that program. The costs shall~~
23 ~~be deducted before any distribution of revenues to other~~
24 ~~governmental entities required by any other law. A county or court~~
25 ~~operating a comprehensive collection program may establish a~~
26 ~~minimum base fine, forfeiture, penalty, or assessment amount for~~
27 ~~inclusion in the program.~~

28 ~~(b) Once debt becomes delinquent, it continues to be delinquent~~
29 ~~and may be subject to collection by a comprehensive collection~~
30 ~~program. Debt is delinquent and subject to collection by a~~
31 ~~comprehensive collection program if any of the following~~
32 ~~conditions is met:~~

33 ~~(1) A defendant does not post bail or appear on or before the~~
34 ~~date on which they promised to appear, or any lawful continuance~~
35 ~~of that date, if that defendant was eligible to post and forfeit bail.~~

36 ~~(2) A defendant does not pay the amount imposed by the court~~
37 ~~on or before the date ordered by the court, or any lawful~~
38 ~~continuance of that date.~~

39 ~~(3) A defendant has failed to make an installment payment on~~
40 ~~the date specified by the court.~~

- 1 (c) For the purposes of this section, a “comprehensive collection
2 program” is a separate and distinct revenue collection activity that
3 meets each of the following criteria:
- 4 (1) The program identifies and collects amounts arising from
5 delinquent court-ordered debt, whether or not a warrant has been
6 issued against the alleged violator.
- 7 (2) The program complies with the requirements of subdivision
8 (b) of Section 1463.010.
- 9 (3) The program engages in each of the following activities:
- 10 (A) Attempts telephone contact with delinquent debtors for
11 whom the program has a telephone number to inform them of their
12 delinquent status and payment options.
- 13 (B) Notifies delinquent debtors for whom the program has an
14 address in writing of their outstanding obligation within 95 days
15 of delinquency.
- 16 (C) Generates internal monthly reports to track collections data,
17 such as age of debt and delinquent amounts outstanding.
- 18 (D) Uses Department of Motor Vehicles information to locate
19 delinquent debtors.
- 20 (E) Accepts payment of delinquent debt by credit card.
- 21 (4) The program engages in at least five of the following
22 activities:
- 23 (A) Sends delinquent debt to the Franchise Tax Board’s
24 Court-Ordered Debt Collections Program.
- 25 (B) Sends delinquent debt to the Franchise Tax Board’s
26 Interagency Intercept Collections Program.
- 27 (C) Initiates driver’s license suspension or hold actions when
28 appropriate for a failure to appear in court.
- 29 (D) Contracts with one or more private debt collectors to collect
30 delinquent debt.
- 31 (E) Sends monthly bills or account statements to all delinquent
32 debtors.
- 33 (F) Contracts with local, regional, state, or national skip tracing
34 or locator resources or services to locate delinquent debtors.
- 35 (G) Coordinates with the probation department to locate debtors
36 who may be on formal or informal probation.
- 37 (H) Uses Employment Development Department employment
38 and wage information to collect delinquent debt.
- 39 (I) Establishes wage and bank account garnishments where
40 appropriate.

1 ~~(J) Places liens on real property owned by delinquent debtors~~
2 ~~when appropriate.~~

3 ~~(K) Uses an automated dialer or automatic call distribution~~
4 ~~system to manage telephone calls.~~

5 ~~SEC. 99.~~

6 *SEC. 71.* Section 1463.010 of the Penal Code is amended to
7 read:

8 1463.010. The uniform imposition and enforcement of
9 court-ordered debts are recognized as an important element of
10 California's judicial system. Prompt, efficient, and effective
11 imposition and collection of court-ordered *fees*, fines, forfeitures,
12 penalties, restitution, and assessments ensure the appropriate
13 respect for court orders. The California State Association of
14 Counties and the Administrative Office of the Courts are jointly
15 committed to identifying, improving, and seeking to expand access
16 to mechanisms and tools that will enhance efforts to collect
17 court-ordered debt. To provide for this prompt, efficient, and
18 effective collection:

19 (a) The Judicial Council shall adopt guidelines for a
20 comprehensive program concerning the collection of moneys owed
21 for *fees*, fines, forfeitures, penalties, and assessments imposed by
22 court order. As part of its guidelines, the Judicial Council may
23 establish standard agreements for entities to provide collection
24 services. As part of its guidelines, the Judicial Council shall include
25 provisions that promote competition by and between entities in
26 providing collection services to courts and counties. The Judicial
27 Council may delegate to the Administrative Director of the Courts
28 the implementation of the aspects of this program to be carried out
29 at the state level.

30 (b) The courts and counties shall maintain the collection program
31 that was in place on January 1, 1996, unless otherwise agreed to
32 in writing by the court and county. The program may wholly or
33 partially be staffed and operated within the court itself, may be
34 wholly or partially staffed and operated by the county, or may be
35 wholly or partially contracted with a third party. In carrying out
36 this collection program, each superior court and county shall
37 develop a cooperative plan to implement the Judicial Council
38 guidelines. In the event that a court and a county are unwilling or
39 unable to enter into a cooperative plan pursuant to this section, the
40 court or the county may request the continuation of negotiations

1 with mediation assistance as mutually agreed upon and provided
2 by the Administrative Director of the Courts and the California
3 State Association of Counties.

4 (c) The Judicial Council shall develop performance measures
5 and benchmarks to review the effectiveness of the cooperative
6 superior court and county collection programs operating pursuant
7 to this section. Each superior court and county shall jointly report
8 to the Judicial Council, as provided by the Judicial Council,
9 information requested in a reporting template on or before
10 September 1, 2009, and annually thereafter. The Judicial Council
11 shall report to the Legislature on December 31, 2009, and annually
12 thereafter, on all of the following:

13 (1) The extent to which each court or county is following best
14 practices for its collection program.

15 (2) The performance of each collection program.

16 (3) Any changes necessary to improve performance of collection
17 programs statewide.

18 (d) The Judicial Council may, when the efficiency and
19 effectiveness of the collection process may be improved, facilitate
20 a joint collection program between superior courts, between
21 counties, or between superior courts and counties.

22 (e) The Judicial Council may establish, by court rule, a program
23 providing for the suspension and nonrenewal of a business and
24 professional license if the holder of the license has unpaid *fees*,
25 fines, forfeitures, penalties, and assessments imposed upon them
26 under a court order. The Judicial Council may provide that some
27 or all of the superior courts or counties participate in the program.
28 Any program established by the Judicial Council shall ensure that
29 the licensee receives adequate and appropriate notice of the
30 proposed suspension or nonrenewal of the licensee's license and
31 has an opportunity to contest the suspension or nonrenewal. The
32 opportunity to contest may not require a court hearing.

33 (f) Notwithstanding any other provision of law, the Judicial
34 Council, after consultation with the Franchise Tax Board with
35 respect to collections under Section 19280 of the Revenue and
36 Taxation Code, may provide for an amnesty program involving
37 the collection of outstanding *fees*, fines, forfeitures, penalties, and
38 assessments, applicable either statewide or within one or more
39 counties. The amnesty program shall provide that some or all of
40 the interest or collections costs imposed on outstanding *fees*, fines,

1 forfeitures, penalties, and assessments may be waived if the
2 remaining amounts due are paid within the amnesty period.

3 ~~SEC. 100. Section 1463.011 of the Penal Code is amended to~~
4 ~~read:~~

5 ~~1463.011. (a) Notwithstanding any other provision of law, if~~
6 ~~a court, during the course of its routine process to collect fines,~~
7 ~~forfeitures, or other penalties imposed by a court due to a citation~~
8 ~~issued for the violation of a state or local law, obtains information~~
9 ~~indicating that a person under 25 years of age, who has been issued~~
10 ~~a citation for truancy, loitering, curfew violations, or illegal lodging~~
11 ~~that is outstanding or unpaid, is homeless or has no permanent~~
12 ~~address, the court shall not garnish the wages or levy against bank~~
13 ~~accounts of that person until that person is 25 years of age or older,~~
14 ~~as that age is recorded by that person's credit report or other~~
15 ~~document already in the possession of, or previously provided to,~~
16 ~~the court.~~

17 ~~(b) For purposes of this section a person is considered to be~~
18 ~~"homeless" or as having "no permanent address" if that person~~
19 ~~does not have a fixed, regular, adequate nighttime residence, or~~
20 ~~has a primary nighttime residence that is one of the following:~~

21 ~~(1) A supervised publicly or privately operated shelter designed~~
22 ~~to provide temporary living accommodations, including, but not~~
23 ~~limited to, welfare hotels, congregate shelters, and transitional~~
24 ~~housing for the mentally ill.~~

25 ~~(2) An institution that provides a temporary residence for~~
26 ~~individuals intended to be institutionalized.~~

27 ~~(3) A public or private place not designed for, or ordinarily used~~
28 ~~as, a regular sleeping accommodation for human beings.~~

29 ~~(c) Nothing in this section shall be construed to prevent a court~~
30 ~~from engaging in any other lawful debt collection activities.~~

31 ~~(d) Nothing in this section shall be construed to require a court~~
32 ~~to perform any further investigation or financial screening into~~
33 ~~any matter beyond the scope of its regular duties.~~

34 ~~(e) Nothing in this section shall be construed to prevent the~~
35 ~~Judicial Council from altering any best practices or~~
36 ~~recommendations for collection programs pursuant to Section~~
37 ~~1463.010.~~

38 ~~(f) Nothing in this section shall be construed to prevent a court~~
39 ~~from garnishing a person's wages or levying against a person's~~
40 ~~bank accounts if the court, subsequent to its initial determination~~

1 ~~that the person was a homeless youth exempt from wage~~
2 ~~garnishment or levy under this section, obtains evidence that the~~
3 ~~individual is no longer homeless.~~

4 ~~SEC. 101. Section 1463.012 of the Penal Code is amended to~~
5 ~~read:~~

6 ~~1463.012. (a) Notwithstanding any other law, if a court, during~~
7 ~~the course of its routine process to collect fines, forfeitures, or~~
8 ~~other penalties imposed by a court due to a citation issued for the~~
9 ~~violation of a state or local law, obtains information indicating that~~
10 ~~a person who has been issued a citation for loitering, curfew~~
11 ~~violations, or illegal lodging that is outstanding or unpaid served~~
12 ~~in the military within the last eight years and is homeless or has~~
13 ~~no permanent address, the court shall not garnish the wages or~~
14 ~~levy against bank accounts of that person for five years from the~~
15 ~~date that the court obtained that information.~~

16 ~~(b) For purposes of this section, a person is considered to be~~
17 ~~“homeless” or as having “no permanent address” if that person~~
18 ~~does not have a fixed, regular, adequate nighttime residence, or~~
19 ~~has a primary nighttime residence that is one of the following:~~

20 ~~(1) A supervised publicly or privately operated shelter designed~~
21 ~~to provide temporary living accommodations, including, but not~~
22 ~~limited to, welfare hotels, congregate shelters, and transitional~~
23 ~~housing for the mentally ill.~~

24 ~~(2) An institution that provides a temporary residence for~~
25 ~~individuals intended to be institutionalized.~~

26 ~~(3) A public or private place not designed for, or ordinarily used~~
27 ~~as, a regular sleeping accommodation for human beings.~~

28 ~~(c) Nothing in this section shall be construed to prevent a court~~
29 ~~from engaging in any other lawful debt collection activities.~~

30 ~~(d) Nothing in this section shall be construed to require a court~~
31 ~~to perform any further investigation or financial screening into~~
32 ~~any matter beyond the scope of its regular duties.~~

33 ~~(e) Nothing in this section shall be construed to prevent the~~
34 ~~Judicial Council from altering any best practices or~~
35 ~~recommendations for collection programs pursuant to Section~~
36 ~~1463.010.~~

37 ~~(f) Nothing in this section shall be construed to prevent a court~~
38 ~~from garnishing a person’s wages or levying against a person’s~~
39 ~~bank accounts if the court, subsequent to its initial determination~~
40 ~~that the person was a homeless veteran exempt from wage~~

1 garnishment or levy under this section, obtains evidence that the
2 individual is no longer homeless, or that the court had, on a
3 previous occasion, suspended garnishment of that person's wages
4 or levying against that person's bank accounts pursuant to
5 subdivision (a).

6 ~~SEC. 102. Section 1463.07 of the Penal Code is repealed.~~

7 ~~SEC. 103. Section 1463.14 of the Penal Code is amended to~~
8 ~~read:~~

9 ~~1463.14. (a) Notwithstanding the provisions of Section 1463,~~
10 ~~of the moneys deposited with the county treasurer pursuant to~~
11 ~~Section 1463, fifty dollars (\$50) of each fine collected for each~~
12 ~~conviction of a violation of Section 23103, 23104, 23105, 23152,~~
13 ~~or 23153 of the Vehicle Code shall be deposited in a special~~
14 ~~account that shall be used exclusively to pay for the cost of~~
15 ~~performing for the county, or a city or special district within the~~
16 ~~county, analysis of blood, breath or urine for alcohol content or~~
17 ~~for the presence of drugs, or for services related to that testing.~~
18 ~~The sum shall not exceed the reasonable cost of providing the~~
19 ~~services for which the sum is intended.~~

20 ~~On November 1 of each year, the treasurer of each county shall~~
21 ~~determine those moneys in the special account that were not~~
22 ~~expended during the preceding fiscal year, and shall transfer those~~
23 ~~moneys into the general fund of the county. The board of~~
24 ~~supervisors may, by resolution, assign the treasurer's duty to~~
25 ~~determine the amount of money that was not expended to the~~
26 ~~auditor or another county officer. The county may retain an amount~~
27 ~~of that money equal to its administrative cost incurred pursuant to~~
28 ~~this section, and shall distribute the remainder pursuant to Section~~
29 ~~1463. If the account becomes exhausted, the public entity ordering~~
30 ~~a test performed pursuant to this subdivision shall bear the costs~~
31 ~~of the test.~~

32 ~~(b) The Department of Justice shall promulgate rules and~~
33 ~~regulations to implement the provisions of this section.~~

34 ~~SEC. 104. Section 1464.8 of the Penal Code is amended to~~
35 ~~read:~~

36 ~~1464.8. Notwithstanding any other provision of law, when an~~
37 ~~allocation and distribution of any fine, forfeiture, penalty, or~~
38 ~~assessment collected in any criminal case is made, including, but~~
39 ~~not limited to, moneys collected pursuant to this chapter, Section~~
40 ~~13003 of the Fish and Game Code, Chapter 12 (commencing with~~

1 Section 76000) of Title 8 of the Government Code, and Sections
2 11372.5 and 11502 of the Health and Safety Code, the allocation
3 and distribution of any payment may be based upon the law in
4 effect during the accounting period when the payment is made.

5 ~~SEC. 105.~~

6 *SEC. 72.* Section 1465.9 is added to the Penal Code, to read:

7 1465.9. On and after January 1, 2020, the balance of any
8 court-imposed costs pursuant to subdivision (e) of Section 273.1,
9 ~~subdivision (h) of Section 273.6, paragraph (2) of subdivision (b)~~
10 ~~of Section 290.06, subdivision (c) of Section 597.3, Section 987.4,~~
11 ~~subdivision (a) of Section 987.5, Sections 987.8, 1001.15, 1001.16,~~
12 ~~and 1001.90, subdivision (l) of Section 1202.4, subparagraph (E)~~
13 ~~of paragraph (4) of subdivision (f) of Section 1202.42, Sections~~
14 ~~1203, 1203.016, 1203.018, and 1203.067, paragraphs (5) and (11),~~
15 ~~and 1203.018, paragraph (5) of subdivision (a) of, and paragraphs~~
16 ~~(1) and (5) of subdivision (c) of, Section 1203.097, subdivision (l)~~
17 ~~of Section 1203.1, Sections 1203.1a, 1203.1ab, 1203.1b, 1203.1bb,~~
18 ~~1203.1c, 1203.1e, 1203.1h, 1203.1i, 1203.1m, 1203.4, 1203.4a,~~
19 ~~1203.41, 1203.42, 1203.45, 1203.9, 1205, 1208.2, 1209, 1210.1,~~
20 ~~1208.2, 1210.15, 1211, 1214.1, 1214.5, 1463.07, and 1463.14, and~~
21 ~~1214.5, subdivision (d) of Section 2085.6, subdivision (d) of~~
22 ~~Section 2085.7, subdivision (b) of Section 3000.07, Section 3010.8,~~
23 ~~subdivision (b) of Section 4011.1, and Sections 4011.2, Sections~~
24 ~~3010.8, 4024.2, 5007.5, and 6266, as those sections read on~~
25 ~~December 31, 2019, shall be unenforceable and uncollectible and~~
26 ~~any portion of a judgment imposing those costs shall be vacated.~~

27 ~~SEC. 106.~~

28 *SEC. 73.* Section 2085.5 of the Penal Code is amended to read:

29 2085.5. (a) If a prisoner owes a restitution fine imposed
30 pursuant to subdivision (a) of Section 13967 of the Government
31 Code, as operative prior to September 29, 1994, subdivision (b)
32 of Section 730.6 of the Welfare and Institutions Code, or
33 subdivision (b) of Section 1202.4 of this code, the secretary shall
34 deduct a minimum of 20 percent or the balance owing on the fine
35 amount, whichever is less, up to a maximum of 50 percent from
36 the wages and trust account deposits of a prisoner, unless prohibited
37 by federal law, and shall transfer that amount to the California
38 Victim Compensation Board for deposit in the Restitution Fund.
39 The amount deducted shall be credited against the amount owing

1 on the fine. The sentencing court shall be provided a record of the
2 payments.

3 (b) (1) If a prisoner is punished by imprisonment in a county
4 jail pursuant to subdivision (h) of Section 1170 and owes a
5 restitution fine imposed pursuant to subdivision (a) of Section
6 13967 of the Government Code, as operative prior to September
7 29, 1994, subdivision (b) of Section 730.6 of the Welfare and
8 Institutions Code, or subdivision (b) of Section 1202.4 of this code,
9 the agency designated by the board of supervisors in a county
10 where the prisoner is incarcerated is authorized to deduct a
11 minimum of 20 percent or the balance owing on the fine amount,
12 whichever is less, up to a maximum of 50 percent from the county
13 jail equivalent of wages and trust account deposits of a prisoner,
14 unless prohibited by federal law, and shall transfer that amount to
15 the California Victim Compensation Board for deposit in the
16 Restitution Fund. The amount deducted shall be credited against
17 the amount owing on the fine. The sentencing court shall be
18 provided a record of the payments.

19 (2) If the board of supervisors designates the county sheriff as
20 the collecting agency, the board of supervisors shall first obtain
21 the concurrence of the county sheriff.

22 (c) If a prisoner owes a restitution order imposed pursuant to
23 subdivision (c) of Section 13967 of the Government Code, as
24 operative prior to September 29, 1994, subdivision (h) of Section
25 730.6 of the Welfare and Institutions Code, or subdivision (f) of
26 Section 1202.4 of this code, the secretary shall deduct a minimum
27 of 20 percent or the balance owing on the order amount, whichever
28 is less, up to a maximum of 50 percent from the wages and trust
29 account deposits of a prisoner, unless prohibited by federal law.
30 The secretary shall transfer that amount to the California Victim
31 Compensation Board for direct payment to the victim, or payment
32 shall be made to the Restitution Fund to the extent that the victim
33 has received assistance pursuant to that program. The sentencing
34 court shall be provided a record of the payments made to victims
35 and of the payments deposited to the Restitution Fund pursuant to
36 this subdivision.

37 (d) If a prisoner is punished by imprisonment in a county jail
38 pursuant to subdivision (h) of Section 1170 and owes a restitution
39 order imposed pursuant to subdivision (c) of Section 13967 of the
40 Government Code, as operative prior to September 29, 1994,

1 subdivision (h) of Section 730.6 of the Welfare and Institutions
2 Code, or subdivision (b) of Section 1202.4 of this code, the agency
3 designated by the board of supervisors in the county where the
4 prisoner is incarcerated is authorized to deduct a minimum of 20
5 percent or the balance owing on the order amount, whichever is
6 less, up to a maximum of 50 percent from the county jail equivalent
7 of wages and trust account deposits of a prisoner, unless prohibited
8 by federal law. The agency shall transfer that amount to the
9 California Victim Compensation Board for direct payment to the
10 victim, or payment shall be made to the Restitution Fund to the
11 extent that the victim has received assistance pursuant to that
12 program, or may pay the victim directly. The sentencing court
13 shall be provided a record of the payments made to the victims
14 and of the payments deposited to the Restitution Fund pursuant to
15 this subdivision.

16 (e) In any case in which a parolee owes a restitution fine
17 imposed pursuant to subdivision (a) of Section 13967 of the
18 Government Code, as operative prior to September 29, 1994,
19 subdivision (b) of Section 730.6 of the Welfare and Institutions
20 Code, or subdivision (b) of Section 1202.4 of this code, either the
21 secretary or, if a prisoner is punished by imprisonment in a county
22 jail pursuant to subdivision (h) of Section 1170, the agency
23 designated by the board of supervisors in the county where the
24 prisoner is incarcerated may collect from the parolee any moneys
25 owing on the restitution fine amount, unless prohibited by federal
26 law. The secretary or the agency shall transfer that amount to the
27 California Victim Compensation Board for deposit in the
28 Restitution Fund. The amount deducted shall be credited against
29 the amount owing on the fine. The sentencing court shall be
30 provided a record of the payments.

31 (f) In any case in which a parolee owes a direct order of
32 restitution, imposed pursuant to subdivision (c) of Section 13967
33 of the Government Code, as operative prior to September 29, 1994,
34 subdivision (h) of Section 730.6 of the Welfare and Institutions
35 Code, or paragraph (3) of subdivision (a) of Section 1202.4, either
36 the secretary or, if a prisoner is punished by imprisonment in a
37 county jail pursuant to subdivision (h) of Section 1170, the agency
38 designated by the board of supervisors in the county where the
39 prisoner is incarcerated or a local collection program may collect
40 from the parolee any moneys owing, unless prohibited by federal

1 law. The secretary or the agency shall transfer that amount to the
2 California Victim Compensation Board for direct payment to the
3 victim, or payment shall be made to the Restitution Fund to the
4 extent that the victim has received assistance pursuant to that
5 program, or the agency may pay the victim directly. The sentencing
6 court shall be provided a record of the payments made by the
7 offender pursuant to this subdivision.

8 (g) If a prisoner has both a restitution fine and a restitution order
9 from the sentencing court, the department shall collect the
10 restitution order first pursuant to subdivision (c).

11 (h) If a prisoner is punished by imprisonment in a county jail
12 pursuant to subdivision (h) of Section 1170 and that prisoner has
13 both a restitution fine and a restitution order from the sentencing
14 court, if the agency designated by the board of supervisors in the
15 county where the prisoner is incarcerated collects the fine and
16 order, the agency shall collect the restitution order first pursuant
17 to subdivision (d).

18 (i) If a parolee has both a restitution fine and a restitution order
19 from the sentencing court, either the department or, if the prisoner
20 is punished by imprisonment in a county jail pursuant to
21 subdivision (h) of Section 1170, the agency designated by the
22 board of supervisors in the county where the prisoner is
23 incarcerated may collect the restitution order first, pursuant to
24 subdivision (f).

25 (j) If an inmate is housed at an institution that requires food to
26 be purchased from the institution canteen for unsupervised
27 overnight visits, and if the money for the purchase of this food is
28 received from funds other than the inmate's wages, that money
29 shall be exempt from restitution deductions. This exemption shall
30 apply to the actual amount spent on food for the visit up to a
31 maximum of fifty dollars (\$50) for visits that include the inmate
32 and one visitor, seventy dollars (\$70) for visits that include the
33 inmate and two or three visitors, and eighty dollars (\$80) for visits
34 that include the inmate and four or more visitors.

35 (k) (1) Amounts transferred to the California Victim
36 Compensation Board for payment of direct orders of restitution
37 shall be paid to the victim within 60 days from the date the
38 restitution revenues are received by the California Victim
39 Compensation Board. If the restitution payment to a victim is less
40 than twenty-five dollars (\$25), then payment need not be forwarded

1 to that victim until the payment reaches twenty-five dollars (\$25)
2 or when the victim requests payment of the lesser amount.

3 (2) If a victim cannot be located, the restitution revenues
4 received by the California Victim Compensation Board on behalf
5 of the victim shall be held in trust in the Restitution Fund until the
6 end of the state fiscal year subsequent to the state fiscal year in
7 which the funds were deposited or until the time that the victim
8 has provided current address information, whichever occurs sooner.
9 Amounts remaining in trust at the end of the specified period of
10 time shall revert to the Restitution Fund.

11 (3) (A) A victim failing to provide a current address within the
12 period of time specified in paragraph (2) may provide
13 documentation to the department, which shall verify that moneys
14 were collected on behalf of the victim. Upon receipt of that verified
15 information from the department, the California Victim
16 Compensation Board shall transmit the restitution revenues to the
17 victim in accordance with the provisions of subdivision (c) or (f).

18 (B) A victim failing to provide a current address within the
19 period of time specified in paragraph (2) may provide
20 documentation to the agency designated by the board of supervisors
21 in the county where the prisoner punished by imprisonment in a
22 county jail pursuant to subdivision (h) of Section 1170 is
23 incarcerated, which may verify that moneys were collected on
24 behalf of the victim. Upon receipt of that verified information from
25 the agency, the California Victim Compensation Board shall
26 transmit the restitution revenues to the victim in accordance with
27 the provisions of subdivision (d) or (f).

28 ~~SEC. 107.~~

29 *SEC. 74.* Section 2085.6 of the Penal Code is amended to read:

30 2085.6. (a) When a prisoner who owes a restitution fine, or
31 any portion thereof, is subsequently released from the custody of
32 the Department of Corrections and Rehabilitation or a county jail
33 facility, and is subject to postrelease community supervision under
34 Section 3451 or mandatory supervision under subdivision (h) of
35 Section 1170, the prisoner shall have a continuing obligation to
36 pay the restitution fine in full. The restitution fine obligation and
37 any portion left unsatisfied upon placement in postrelease
38 community supervision or mandatory supervision is enforceable
39 and may be collected, in a manner to be established by the county
40 board of supervisors, by the department or county agency

1 designated by the board of supervisors in the county where the
2 prisoner is released. If a county elects to collect restitution fines,
3 the department or county agency designated by the county board
4 of supervisors shall transfer the amount collected to the California
5 Victim Compensation Board for deposit in the Restitution Fund
6 in the State Treasury.

7 (b) When a prisoner who owes payment for a restitution order,
8 or any portion thereof, is released from the custody of the
9 Department of Corrections and Rehabilitation or a county jail
10 facility, and is subject to postrelease community supervision under
11 Section 3451 or mandatory supervision under subdivision (h) of
12 Section 1170, the prisoner shall have a continuing obligation to
13 pay the restitution order in full. The restitution order obligation
14 and any portion left unsatisfied upon placement in postrelease
15 community supervision or mandatory supervision is enforceable
16 and may be collected, in a manner to be established by the county
17 board of supervisors, by the agency designated by the county board
18 of supervisors in the county where the prisoner is released. If the
19 county elects to collect the restitution order, the agency designated
20 by the county board of supervisors for collection shall transfer the
21 collected amount to the California Victim Compensation *Board*
22 for deposit in the Restitution Fund in the State Treasury or may
23 pay the victim directly. The sentencing court shall be provided a
24 record of payments made to the victim and of the payments
25 deposited into the Restitution Fund.

26 (c) Any portion of a restitution order or restitution fine that
27 remains unsatisfied after an individual is released from postrelease
28 community supervision or mandatory supervision shall continue
29 to be enforceable by a victim pursuant to Section 1214 until the
30 obligation is satisfied.

31 (d) If a county elects to collect both a restitution fine and a
32 restitution order, the amount owed on the restitution order shall
33 be collected before the restitution fine.

34 (e) If a county elects to collect restitution fines and restitution
35 orders pursuant to this section, the county shall coordinate efforts
36 with the Franchise Tax Board pursuant to Section 19280 of the
37 Revenue and Taxation Code.

38 (f) Pursuant to Section 1214, the county agency selected by a
39 county board of supervisors to collect restitution fines and
40 restitution orders may collect restitution fines and restitution orders

1 after an individual is no longer on postrelease community
2 supervision or mandatory supervision or after a term in custody
3 pursuant to subparagraph (A) of paragraph (5) of subdivision (h)
4 of Section 1170.

5 (g) For purposes of this section, the following definitions shall
6 apply:

7 (1) "Restitution fine" means a fine imposed pursuant to
8 subdivision (a) of Section 13967 of the Government Code, as
9 operative prior to September 29, 1994, subdivision (b) of Section
10 730.6 of the Welfare and Institutions Code, or subdivision (b) of
11 Section 1202.4.

12 (2) "Restitution order" means an order for restitution to the
13 victim of a crime imposed pursuant to subdivision (c) of Section
14 13967 of the Government Code, as operative prior to September
15 29, 1994, subdivision (h) of Section 730.6 of the Welfare and
16 Institutions Code, or subdivision (f) of Section 1202.4.

17 ~~SEC. 108.~~

18 *SEC. 75.* Section 2085.7 of the Penal Code is amended to read:

19 2085.7. (a) When a prisoner who owes a restitution fine, or
20 any portion thereof, is released from the custody of a county jail
21 facility after completion of a term in custody pursuant to
22 subparagraph (A) of paragraph (5) of subdivision (h) of Section
23 1170, the prisoner has a continuing obligation to pay the restitution
24 fine in full. The balance of the restitution fine remaining unpaid
25 after completion of a term in custody pursuant to subparagraph
26 (A) of paragraph (5) of subdivision (h) of Section 1170 is
27 enforceable and may be collected, in a manner to be established
28 by the county board of supervisors, by the department or county
29 agency designated by the board of supervisors in the county in
30 which the prisoner is released. If a county elects to collect
31 restitution fines, the department or county agency designated by
32 the county board of supervisors shall transfer the amount collected
33 to the California Victim Compensation Board for deposit in the
34 Restitution Fund.

35 (b) When a prisoner who owes payment for a restitution order,
36 or any portion thereof, is released from the custody of a county
37 jail facility after completion of a term in custody pursuant to
38 subparagraph (A) of paragraph (5) of subdivision (h) of Section
39 1170, the prisoner has a continuing obligation to pay the restitution
40 order in full. The balance of the restitution order remaining unpaid

1 after completion of a term in custody pursuant to subparagraph
2 (A) of paragraph (5) of subdivision (h) of Section 1170 is
3 enforceable and may be collected, in a manner to be established
4 by the county board of supervisors, by the agency designated by
5 the county board of supervisors in the county in which the prisoner
6 is released. If the county elects to collect the restitution order, the
7 agency designated by the county board of supervisors for collection
8 shall transfer the collected amount to the California Victim
9 Compensation Board for deposit in the Restitution Fund or may
10 pay the victim directly. The sentencing court shall be provided a
11 record of payments made to the victim and of the payments
12 deposited into the Restitution Fund.

13 (c) The amount of a restitution order or restitution fine that
14 remains unsatisfied after completion of a term in custody pursuant
15 to subparagraph (A) of paragraph (5) of subdivision (h) of Section
16 1170 is to be enforceable by a victim pursuant to Section 1214
17 until the obligation is satisfied.

18 (d) If a county elects to collect both a restitution fine and a
19 restitution order, the amount owed on the restitution order shall
20 be collected before the restitution fine.

21 (e) If a county elects to collect restitution fines and restitution
22 orders pursuant to this section, the county shall coordinate efforts
23 with the Franchise Tax Board pursuant to Section 19280 of the
24 Revenue and Taxation Code.

25 (f) Pursuant to Section 1214, the county agency selected by a
26 county board of supervisors to collect restitution fines and
27 restitution orders may collect restitution fines and restitution orders
28 after an individual has completed a term in custody pursuant to
29 subparagraph (A) of paragraph (5) of subdivision (h) of Section
30 1170.

31 (g) For purposes of this section, the following definitions shall
32 apply:

33 (1) "Restitution fine" means a fine imposed pursuant to
34 subdivision (a) of Section 13967 of the Government Code, as
35 operative prior to September 29, 1994, subdivision (b) of Section
36 730.6 of the Welfare and Institutions Code, or subdivision (b) of
37 Section 1202.4.

38 (2) "Restitution order" means an order for restitution to the
39 victim of a crime imposed pursuant to subdivision (c) of Section
40 13967 of the Government Code, as operative prior to September

1 29, 1994, subdivision (h) of Section 730.6 of the Welfare and
2 Institutions Code, or subdivision (f) of Section 1202.4.

3 ~~SEC. 109.~~ Section 3000.07 of the Penal Code is amended to
4 read:

5 3000.07. Every inmate who has been convicted for any felony
6 violation of a "registerable sex offense" described in subdivision
7 (c) of Section 290 or any attempt to commit any of those offenses
8 and who is committed to prison and released on parole pursuant
9 to Section 3000 or 3000.1 shall be monitored by a global
10 positioning system for the term of the inmate's parole, or for the
11 duration or any remaining part thereof, whichever period of time
12 is less.

13 ~~SEC. 110.~~

14 ~~SEC. 76.~~ Section 3010.8 of the Penal Code is repealed.

15 ~~SEC. 111.~~ Section 4011.1 of the Penal Code is amended to
16 read:

17 4011.1. (a) Notwithstanding Section 29602 of the Government
18 Code and any other provisions of this chapter, a county, city or
19 the Department of Corrections and Rehabilitation, Division of
20 Juvenile Justice is authorized to make claim for and recovery of
21 the costs of necessary hospital, medical, surgical, dental, or
22 optometric care rendered to any prisoner confined in a county or
23 city jail or any juvenile confined in a detention facility, who would
24 otherwise be entitled to that care under the Medi-Cal Act (Chapter
25 7 (commencing with Section 14000) Part 3, Division 9, of the
26 Welfare and Institutions Code), and who is eligible for that care
27 on the first day of confinement or detention, to the extent that
28 federal financial participation is available, or under the provisions
29 of any private program or policy for that care, and the county, city
30 or the Division of Juvenile Justice shall be liable only for the costs
31 of that care as cannot be recovered pursuant to this section. No
32 person who is eligible for Medi-Cal shall be eligible for benefits
33 under the provisions of this section, and no county or city or the
34 Division of Juvenile Justice is authorized to make a claim for any
35 recovery of costs for services for that person, unless federal
36 financial participation is available for all or part of the costs of
37 providing services to that person under the Medi-Cal Act.

38 (b) Notwithstanding any other law, any county or city making
39 a claim pursuant to this section and under the Medi-Cal Act shall
40 reimburse the Health Care Deposit Fund for the state costs of

1 ~~paying those medical claims. Funds allocated to the county from~~
2 ~~the County Health Services Fund pursuant to Part 4.5 (commencing~~
3 ~~with Section 16700) of Division 9 of the Welfare and Institutions~~
4 ~~Code may be utilized by the county or city to make that~~
5 ~~reimbursement.~~

6 ~~SEC. 112. Section 4011.2 of the Penal Code is repealed.~~

7 ~~SEC. 113. Section 4018.6 of the Penal Code is amended to~~
8 ~~read:~~

9 ~~4018.6. The sheriff of the county may authorize the temporary~~
10 ~~removal under custody or temporary release without custody of~~
11 ~~any inmate of the county jail, honor farm, or other detention facility~~
12 ~~for family emergencies or for purposes preparatory to the inmate's~~
13 ~~return to the community, if the sheriff concludes that such inmate~~
14 ~~is a fit subject therefor. Any such temporary removal shall not be~~
15 ~~for a period of more than three days. When an inmate is released~~
16 ~~for purposes preparatory to the inmate's return to the community,~~
17 ~~the sheriff shall not require the inmate to reimburse the county for~~
18 ~~expenses incurred by the county in connection therewith.~~

19 ~~SEC. 114.~~

20 ~~SEC. 77. Section 4024.2 of the Penal Code is amended to read:~~

21 ~~4024.2. (a) Notwithstanding any other law, the board of~~
22 ~~supervisors of any county may authorize the sheriff or other official~~
23 ~~in charge of county correctional facilities to offer a voluntary~~
24 ~~program under which any person committed to the facility may~~
25 ~~participate in a work release program pursuant to criteria described~~
26 ~~in subdivision (b), in which one day of participation will be in lieu~~
27 ~~of one day of confinement.~~

28 ~~(b) The criteria for a work release program are the following:~~

29 ~~(1) The work release program shall consist of any of the~~
30 ~~following:~~

31 ~~(A) Manual labor to improve or maintain levees or public~~
32 ~~facilities, including, but not limited to, streets, parks, and schools.~~

33 ~~(B) Manual labor in support of nonprofit organizations, as~~
34 ~~approved by the sheriff or other official in charge of the~~
35 ~~correctional facilities. As a condition of assigning participants of~~
36 ~~a work release program to perform manual labor in support of~~
37 ~~nonprofit organizations pursuant to this section, the board of~~
38 ~~supervisors shall obtain workers' compensation insurance which~~
39 ~~shall be adequate to cover work-related injuries incurred by those~~
40 ~~participants, in accordance with Section 3363.5 of the Labor Code.~~

1 (C) Performance of graffiti cleanup for local governmental
2 entities, including participation in a graffiti abatement program as
3 defined in subdivision (f) of Section 594, as approved by the sheriff
4 or other official in charge of the correctional facilities.

5 (D) Performance of weed and rubbish abatement on public and
6 private property pursuant to Chapter 13 (commencing with Section
7 39501) of Part 2 of Division 3 of Title 4 of the Government Code,
8 or Part 5 (commencing with Section 14875) or Part 6 (commencing
9 with Section 14930) of Division 12 of the Health and Safety Code,
10 as approved by the sheriff or other official in charge of the
11 correctional facilities.

12 (E) Performance of house repairs or yard services for senior
13 citizens and the performance of repairs to senior centers through
14 contact with local senior service organizations, as approved by the
15 sheriff or other official in charge of the correctional facilities.
16 Where a work release participant has been assigned to this task,
17 the sheriff or other official shall agree upon in advance with the
18 senior service organization about the type of services to be rendered
19 by the participant and the extent of contact permitted between the
20 recipients of these services and the participant.

21 (F) Any person who is not able to perform manual labor as
22 specified in this paragraph because of a medical condition, physical
23 disability, or age, may participate in a work release program
24 involving any other type of public sector work that is designated
25 and approved by the sheriff or other official in charge of county
26 correctional facilities.

27 (2) The sheriff or other official may permit a participant in a
28 work release program to receive work release credit for documented
29 participation in educational programs, vocational programs,
30 substance abuse programs, life skills programs, or parenting
31 programs. Participation in these programs shall be considered in
32 lieu of performing labor in a work release program, with eight
33 work-related hours to equal one day of custody credit.

34 (3) The work release program shall be under the direction of a
35 responsible person appointed by the sheriff or other official in
36 charge.

37 (4) The hours of labor to be performed pursuant to this section
38 shall be uniform for all persons committed to a facility in a county
39 and may be determined by the sheriff or other official in charge
40 of county correctional facilities, and each day shall be a minimum

1 of 8 and a maximum of 10 hours, in accordance with the normal
2 working hours of county employees assigned to supervise the
3 programs. However, reasonable accommodation may be made for
4 participation in a program under paragraph (2).

5 As used in this section, "nonprofit organizations" means
6 organizations established or operated for the benefit of the public
7 or in support of a significant public interest, as set forth in Section
8 501(c)(3) of the Internal Revenue Code. Organizations established
9 or operated for the primary purpose of benefiting their own
10 memberships are excluded.

11 (c) The board of supervisors may prescribe reasonable rules and
12 regulations under which a work release program is operated and
13 may provide that participants wear clothing of a distinctive
14 character while performing the work. As a condition of
15 participating in a work release program, a person shall give their
16 promise to appear for work or assigned activity by signing a notice
17 to appear before the sheriff or at the education, vocational, or
18 substance abuse program at a time and place specified in the notice
19 and shall sign an agreement that the sheriff may immediately retake
20 the person into custody to serve the balance of the person's
21 sentence if the person fails to appear for the program at the time
22 and place agreed to, does not perform the work or activity assigned,
23 or for any other reason is no longer a fit subject for release under
24 this section. A copy of the notice shall be delivered to the person
25 and a copy shall be retained by the sheriff. Any person who
26 willfully violates their written promise to appear at the time and
27 place specified in the notice is guilty of a misdemeanor.

28 Whenever a peace officer has reasonable cause to believe the
29 person has failed to appear at the time and place specified in the
30 notice or fails to appear or work at the time and place agreed to or
31 has failed to perform the work assigned, the peace officer may,
32 without a warrant, retake the person into custody, or the court may
33 issue an arrest warrant for the retaking of the person into custody,
34 to complete the remainder of the original sentence. A peace officer
35 may not retake a person into custody under this subdivision,
36 without a warrant for arrest, unless the officer has a written order
37 to do so, signed by the sheriff or other person in charge of the
38 program, that describes with particularity the person to be retaken.

39 (d) This section does not require the sheriff or other official in
40 charge to assign a person to a program pursuant to this section if

1 it appears from the record that the person has refused to
2 satisfactorily perform as assigned or has not satisfactorily complied
3 with the reasonable rules and regulations governing the assignment
4 or any other order of the court.

5 A person shall be eligible for work release under this section
6 only if the sheriff or other official in charge concludes that the
7 person is a fit subject therefor.

8 ~~SEC. 115. Section 5007.5 of the Penal Code is repealed.~~

9 ~~SEC. 116. Section 5008.2 of the Penal Code is amended to~~
10 ~~read:~~

11 ~~5008.2. (a) During the intake medical examination or intake~~
12 ~~health screening, or while providing general information during~~
13 ~~intake, the department shall provide all inmates with information~~
14 ~~on hepatitis C, including, but not limited to, methods of hepatitis~~
15 ~~C transmission and prevention, and information on opportunities~~
16 ~~for screening and treatment while incarcerated. This subdivision~~
17 ~~shall be implemented only to the extent that brochures, other~~
18 ~~printed information, or other media is provided at no charge to the~~
19 ~~department by public health agencies or any other organization~~
20 ~~promoting hepatitis C education.~~

21 ~~(b) The department shall also provide hepatitis C screening to~~
22 ~~all inmates who request it, and offer it to inmates that have a history~~
23 ~~of intravenous drug use or other risk factors for hepatitis C. This~~
24 ~~testing shall be confidential. A medical copayment shall not be~~
25 ~~charged for hepatitis C testing, treatment, or any followup testing.~~

26 ~~SEC. 117.~~

27 ~~SEC. 78. Section 6266 of the Penal Code is repealed.~~

28 ~~SEC. 118. Section 11208 of the Vehicle Code is amended to~~
29 ~~read:~~

30 ~~11208. (a) The department shall charge a fee, to be determined~~
31 ~~by the department, for the following traffic violator school program~~
32 ~~activities:~~

33 ~~(1) Original issuance of a traffic violator school owner, operator,~~
34 ~~instructor, and branch or classroom location license.~~

35 ~~(2) Renewal of a traffic violator school owner, operator,~~
36 ~~instructor, and branch or classroom location license.~~

37 ~~(3) Issuance of a duplicate or corrected traffic violator school~~
38 ~~owner, operator, instructor, and branch or classroom location~~
39 ~~license.~~

1 ~~(4) Transfer of an operator or instructor license from one traffic~~
2 ~~violator school to another.~~

3 ~~(5) Approval of curriculum, based on the instructional modality~~
4 ~~of the curriculum.~~

5 ~~(6) Fees for administering the examinations pursuant to Sections~~
6 ~~11206 and 11207.~~

7 ~~(b) The fees authorized under subdivision (a) shall be sufficient~~
8 ~~to defray the reasonable cost to the department to administer the~~
9 ~~traffic violator school program, except for routine monitoring of~~
10 ~~instruction.~~

11 ~~SEC. 119.~~

12 *SEC. 79.* Section 13386 of the Vehicle Code, as added by
13 Section 22 of Chapter 783 of the Statutes of 2016, is amended to
14 read:

15 13386. (a) (1) The department shall certify or cause to be
16 certified ignition interlock devices required by Article 5
17 (commencing with Section 23575) of Chapter 2 of Division 11.5
18 and publish a list of approved devices.

19 (2) (A) The department shall ensure that ignition interlock
20 devices that have been certified according to the requirements of
21 this section continue to meet certification requirements. The
22 department may periodically require manufacturers to indicate in
23 writing whether the devices continue to meet certification
24 requirements.

25 (B) The department may use denial of certification, suspension
26 or revocation of certification, or decertification of an ignition
27 interlock device in another state as an indication that the
28 certification requirements are not met, if either of the following
29 apply:

30 (i) The denial of certification, suspension or revocation of
31 certification, or decertification in another state constitutes a
32 violation by the manufacturer of Article 2.55 (commencing with
33 Section 125.00) of Chapter 1 of Division 1 of Title 13 of the
34 California Code of Regulations.

35 (ii) The denial of certification for an ignition interlock device
36 in another state was due to a failure of an ignition interlock device
37 to meet the standards adopted by the regulation set forth in clause

38 (i), specifically Sections 1 and 2 of the ~~model specification for~~
39 ~~breath alcohol ignition interlock devices, *Model Specification for*~~
40 *Breath Alcohol Ignition Interlock Devices*, as published by notice

1 in the Federal Register, Vol. 57, No. 67, Tuesday, April 7, 1992,
2 on pages 11774 to 11787, inclusive, or the Model Specifications
3 for Breath Alcohol Ignition Interlock Devices, as published by
4 notice in the Federal Register, Vol. 78, No. 89, Wednesday, May
5 8, 2013, on pages 25489 to 26867, inclusive.

6 (C) Failure to continue to meet certification requirements shall
7 result in suspension or revocation of certification of ignition
8 interlock devices.

9 (b) (1) A manufacturer shall not furnish an installer, service
10 center, technician, or consumer with technology or information
11 that allows a device to be used in a manner that is contrary to the
12 purpose for which it is certified.

13 (2) Upon a violation of paragraph (1), the department shall
14 suspend or revoke the certification of the ignition interlock device
15 that is the subject of that violation.

16 (c) An installer, service center, or technician shall not tamper
17 with, change, or alter the functionality of the device from its
18 certified criteria.

19 (d) The department shall utilize information from an
20 independent, accredited (ISO/IEC 17025) laboratory to certify
21 ignition interlock devices of the manufacturer or manufacturer's
22 agent, in accordance with the guidelines. The cost of certification
23 shall be borne by the manufacturers of ignition interlock devices.
24 If the certification of a device is suspended or revoked, the
25 manufacturer of the device shall be responsible for, and shall bear
26 the cost of, the removal of the device and the replacement of a
27 certified device of the manufacturer or another manufacturer.

28 (e) A model of ignition interlock device shall not be certified
29 unless it meets the accuracy requirements and specifications
30 provided in the guidelines adopted by the National Highway Traffic
31 Safety Administration.

32 (f) All manufacturers of ignition interlock devices that meet the
33 requirements of subdivision (e) and are certified in a manner
34 approved by the department, who intend to sell the devices in this
35 state, first shall apply to the department on forms provided by that
36 department. The application shall be accompanied by a fee in an
37 amount not to exceed the amount necessary to cover the costs
38 incurred by the department in carrying out this section.

39 (g) The department shall ensure that standard forms and
40 procedures are developed for documenting decisions and

1 compliance and communicating results to relevant agencies. These
2 forms shall include all of the following:

3 (1) An “Option to Install,” to be sent by the department to repeat
4 offenders along with the mandatory order of suspension or
5 revocation. This shall include the alternatives available for early
6 license reinstatement with the installation of an ignition interlock
7 device and shall be accompanied by a toll-free telephone number
8 for each manufacturer of a certified ignition interlock device.
9 Information regarding approved installation locations shall be
10 provided to drivers by manufacturers with ignition interlock devices
11 that have been certified in accordance with this section.

12 (2) A “Verification of Installation” to be returned to the
13 department by the reinstating offender upon application for
14 reinstatement. Copies shall be provided for the manufacturer or
15 the manufacturer’s agent.

16 (3) A “Notice of Noncompliance” and procedures to ensure
17 continued use of the ignition interlock device during the restriction
18 period and to ensure compliance with maintenance requirements.
19 The maintenance period shall be standardized at 60 days to
20 maximize monitoring checks for equipment tampering.

21 (h) A person who manufactures, installs, services, or repairs,
22 or otherwise deals in ignition interlock devices shall not disclose,
23 sell, or transfer to a third party any individually identifiable
24 information pertaining to individuals who are required by law to
25 install an ignition interlock device on a vehicle that the individual
26 owns or operates, except to the extent necessary to confirm or deny
27 that an individual has complied with ignition interlock device
28 installation and maintenance requirements.

29 (i) This section shall become operative January 1, 2026.

30 ~~SEC. 120. Section 21212 of the Vehicle Code is amended to~~
31 ~~read:~~

32 ~~21212. (a) A person under 18 years of age shall not operate a~~
33 ~~bicycle, a nonmotorized scooter, or a skateboard, nor wear in-line~~
34 ~~or roller skates, nor ride upon a bicycle, a nonmotorized scooter,~~
35 ~~or a skateboard as a passenger, upon a street, bikeway, as defined~~
36 ~~in Section 890.4 of the Streets and Highways Code, or any other~~
37 ~~public bicycle path or trail unless that person is wearing a properly~~
38 ~~fitted and fastened bicycle helmet that meets the standards of either~~
39 ~~the American Society for Testing and Materials (ASTM) or the~~
40 ~~United States Consumer Product Safety Commission (CPSC), or~~

1 standards subsequently established by those entities. This
2 requirement also applies to a person who rides upon a bicycle
3 while in a restraining seat that is attached to the bicycle or in a
4 trailer towed by the bicycle.

5 (b) A helmet sold or offered for sale for use by operators and
6 passengers of bicycles, nonmotorized scooters, skateboards, or
7 in-line or roller skates shall be conspicuously labeled in accordance
8 with the standard described in subdivision (a), which shall
9 constitute the manufacturer's certification that the helmet conforms
10 to the applicable safety standards.

11 (c) A person shall not sell, or offer for sale, for use by an
12 operator or passenger of a bicycle, nonmotorized scooter,
13 skateboard, or in-line or roller skates any safety helmet that is not
14 of a type meeting requirements established by this section.

15 (d) A charge under this section shall be dismissed when the
16 person charged alleges in court, under oath, that the charge against
17 the person is the first charge against that person under this section,
18 unless it is otherwise established in court that the charge is not the
19 first charge against the person.

20 (e) (1) Except as provided in subdivision (d), a violation of this
21 section is an infraction punishable by a fine of not more than
22 twenty-five dollars (\$25).

23 (2) The parent or legal guardian having control or custody of
24 an unemancipated minor whose conduct violates this section shall
25 be jointly and severally liable with the minor for the amount of
26 the fine imposed pursuant to this subdivision.

27 (f) A record of the action shall not be transmitted to the court
28 upon a citation for not wearing a properly fitted and fastened
29 bicycle helmet pursuant to subdivision (a) if the parent or legal
30 guardian of the person described in subdivision (a) delivers proof
31 to the issuing agency within 120 days after the citation was issued
32 that the person has a helmet meeting the requirements specified
33 in subdivision (a) and the person has completed a local bicycle
34 safety course or a related safety course, if one is available, as
35 prescribed by authorities in the local jurisdiction.

36 (g) Notwithstanding Section 1463 of the Penal Code or any
37 other provision of law, the fines collected for a violation of this
38 section shall be allocated as follows:

39 (1) Seventy-two and one-half percent of the amount collected
40 shall be deposited in a special account of the county health

1 ~~department, to be used for bicycle, nonmotorized scooter,~~
2 ~~skateboard, and in-line and roller skate safety education and for~~
3 ~~assisting low-income families in obtaining approved bicycle~~
4 ~~helmets for children under the age of 18 years, either on a loan or~~
5 ~~purchase basis. The county may contract for the implementation~~
6 ~~of this program, which, to the extent practicable, shall be operated~~
7 ~~in conjunction with the child passenger restraint program pursuant~~
8 ~~to Section 27360.~~

9 ~~(2) Two and one-half percent of the amount collected shall be~~
10 ~~deposited in the county treasury to be used by the county to~~
11 ~~administer the program described in paragraph (1).~~

12 ~~(3) If the violation occurred within a city, 25 percent of the~~
13 ~~amount collected shall be transferred to, and deposited in, the~~
14 ~~treasury of that city. If the violation occurred in an unincorporated~~
15 ~~area, this 25 percent shall be deposited and used pursuant to~~
16 ~~paragraph (1).~~

17 ~~SEC. 121.~~

18 ~~SEC. 80.~~ Section 23573 of the Vehicle Code, as amended by
19 Section 23 of Chapter 485 of the Statutes of 2017, is amended to
20 read:

21 23573. (a) The Department of Motor Vehicles, upon receipt
22 of the court's abstract of conviction for a violation listed in
23 subdivision (j), shall inform the convicted person of the
24 requirements of this section and the term for which the person is
25 required to have a functioning, certified ignition interlock device
26 installed. The records of the department shall reflect the mandatory
27 use of the device for the term required and the time when the device
28 is required to be installed pursuant to this code.

29 (b) The department shall advise the person that installation of
30 a functioning, certified ignition interlock device on a vehicle does
31 not allow the person to drive without a valid driver's license.

32 (c) (1) A person who is notified by the department pursuant to
33 subdivision (a) shall, within 30 days of notification, complete ~~both~~
34 ~~all~~ of the following:

35 (A) Arrange for each vehicle operated by the person to be fitted
36 with a functioning, certified ignition interlock device by a certified
37 ignition interlock device provider under Section 13386.

38 (B) Notify the department and provide to the department proof
39 of installation by submitting the "Verification of Installation" form
40 described in paragraph (2) of subdivision (g) of Section 13386.

1 (C) Pay to the department a fee sufficient to cover the costs of
2 administration of this section, including startup costs, as
3 determined by the department.

4 (2) The person shall not be responsible for the costs of the
5 certified ignition interlock device or for servicing by installers.

6 (d) The department shall place a restriction on the driver's
7 license record of the convicted person that states the driver is
8 restricted to driving only vehicles equipped with a functioning,
9 certified ignition interlock device.

10 (e) (1) A person who is notified by the department pursuant to
11 subdivision (a) shall arrange for each vehicle with an ignition
12 interlock device to be serviced by the installer at least once every
13 60 days in order for the installer to recalibrate and monitor the
14 operation of the device.

15 (2) The installer shall notify the department if the device is
16 removed or indicates that the person has attempted to remove,
17 bypass, or tamper with the device, or if the person fails three or
18 more times to comply with any requirement for the maintenance
19 or calibration of the ignition interlock device.

20 (f) The department shall monitor the installation and
21 maintenance of the functioning, certified ignition interlock device
22 installed pursuant to subdivision (a).

23 (g) (1) A person who is notified by the department, pursuant
24 to subdivision (a), is exempt from the requirements of subdivision
25 (c) if all of the following circumstances occur:

26 (A) Within 30 days of the notification, the person certifies to
27 the department all of the following:

28 (i) The person does not own a vehicle.

29 (ii) The person does not have access to a vehicle at the person's
30 residence.

31 (iii) The person no longer has access to the vehicle being driven
32 by the person when the person was arrested for a violation that
33 subsequently resulted in a conviction for a violation listed in
34 subdivision (j).

35 (iv) The person acknowledges that the person is only allowed
36 to drive a vehicle that is fitted with a functioning, certified ignition
37 interlock device and that the person is required to have a valid
38 driver's license before the person can drive.

39 (v) The person is subject to the requirements of this section
40 when the person purchases or has access to a vehicle.

1 (B) The person's driver's license record has been restricted
2 pursuant to subdivision (d).

3 (C) The person complies with this section immediately upon
4 commencing operation of a vehicle subject to the required
5 installation of a functioning, certified ignition interlock device.

6 (2) A person who has been granted an exemption pursuant to
7 this subdivision and who subsequently drives a vehicle in violation
8 of the exemption is subject to the penalties of subdivision (i) in
9 addition to any other applicable penalties in law.

10 (h) This section does not permit a person to drive without a
11 valid driver's license.

12 (i) A person who is required under subdivision (c) to install a
13 functioning, certified ignition interlock device who willfully fails
14 to install the ignition interlock device within the time period
15 required under subdivision (c) is guilty of a misdemeanor and shall
16 be punished by imprisonment in a county jail for not more than
17 six months or by a fine of not more than five thousand dollars
18 (\$5,000), or by both that fine and imprisonment.

19 (j) In addition to all other requirements of this code, a person
20 convicted of any of the following violations shall be punished as
21 follows:

22 (1) Upon a conviction of a violation of Section 14601.2,
23 14601.4, or 14601.5 subsequent to one prior conviction of a
24 violation of Section 23103.5, 23152, or 23153, within a 10-year
25 period, the person shall immediately install a functioning, certified
26 ignition interlock device, pursuant to this section, in all vehicles
27 operated by that person for a term of one year.

28 (2) Upon a conviction of a violation of Section 14601.2,
29 14601.4, or 14601.5 subsequent to two prior convictions of a
30 violation of Section 23103.5, 23152, or 23153, within a 10-year
31 period, or one prior conviction of Section 14601.2, 14601.4, or
32 14601.5, within a 10-year period, the person shall immediately
33 install a functioning, certified ignition interlock device, pursuant
34 to this section, in all vehicles operated by that person for a term
35 of two years.

36 (3) Upon a conviction of a violation of Section 14601.2,
37 14601.4, or 14601.5 subsequent to three or more prior convictions
38 of a violation of Section 23103.5, 23152, or 23153, within a
39 10-year period, or two or more prior convictions of Section
40 14601.2, 14601.4, or 14601.5, within a 10-year period, the person

1 shall immediately install a functioning, certified ignition interlock
2 device, pursuant to this section, in all vehicles operated by that
3 person for a term of three years.

4 (k) The department shall notify the court if a person subject to
5 this section has failed to show proof of installation within 30 days
6 of the department informing the person they are required to install
7 a functioning, certified ignition interlock device.

8 (l) Subdivisions (g), (h), (j), (k), and (l) of Section 23575 apply
9 to this section.

10 (m) The requirements of this section are in addition to any other
11 requirements of law.

12 (n) This section shall become operative on January 1, 2019.

13 (o) This section shall remain in effect only until January 1, 2026,
14 and as of that date is repealed, unless a later enacted statute, that
15 is enacted before January 1, 2026, deletes or extends that date.

16 ~~SEC. 122.~~

17 *SEC. 81.* Section 23573 of the Vehicle Code, as amended by
18 Section 24 of Chapter 485 of the Statutes of 2017, is amended to
19 read:

20 23573. (a) The Department of Motor Vehicles, upon receipt
21 of the court's abstract of conviction for a violation listed in
22 subdivision (j), shall inform the convicted person of the
23 requirements of this section and the term for which the person is
24 required to have a functioning, certified ignition interlock device
25 installed. The records of the department shall reflect the mandatory
26 use of the device for the term required and the time when the device
27 is required to be installed pursuant to this code.

28 (b) The department shall advise the person that installation of
29 a functioning, certified ignition interlock device on a vehicle does
30 not allow the person to drive without a valid driver's license.

31 (c) (1) A person who is notified by the department pursuant to
32 subdivision (a) shall, within 30 days of notification, complete ~~both~~
33 *all* of the following:

34 (A) Arrange for each vehicle operated by the person to be fitted
35 with a functioning, certified ignition interlock device by a certified
36 ignition interlock device provider under Section 13386.

37 (B) Notify the department and provide to the department proof
38 of installation by submitting the "Verification of Installation" form
39 described in paragraph (2) of subdivision (g) of Section 13386.

1 (C) *Pay to the department a fee sufficient to cover the costs of*
2 *administration of this section, including startup costs, as*
3 *determined by the department.*

4 (2) The person shall not be responsible for the costs of the
5 certified ignition interlock device or for servicing by installers.

6 (d) The department shall place a restriction on the driver's
7 license record of the convicted person that states the driver is
8 restricted to driving only vehicles equipped with a functioning,
9 certified ignition interlock device.

10 (e) (1) A person who is notified by the department pursuant to
11 subdivision (a) shall arrange for each vehicle with an ignition
12 interlock device to be serviced by the installer at least once every
13 60 days in order for the installer to recalibrate and monitor the
14 operation of the device.

15 (2) The installer shall notify the department if the device is
16 removed or indicates that the person has attempted to remove,
17 bypass, or tamper with the device, or if the person fails three or
18 more times to comply with any requirement for the maintenance
19 or calibration of the ignition interlock device.

20 (f) The department shall monitor the installation and
21 maintenance of the ignition interlock device installed pursuant to
22 subdivision (a).

23 (g) (1) A person who is notified by the department, pursuant
24 to subdivision (a), is exempt from the requirements of subdivision
25 (c) if all of the following circumstances occur:

26 (A) Within 30 days of the notification, the person certifies to
27 the department all of the following:

28 (i) The person does not own a vehicle.

29 (ii) The person does not have access to a vehicle at the person's
30 residence.

31 (iii) The person no longer has access to the vehicle being driven
32 by the person when the person was arrested for a violation that
33 subsequently resulted in a conviction for a violation listed in
34 subdivision (j).

35 (iv) The person acknowledges that the person is only allowed
36 to drive a vehicle that is fitted with a functioning, certified ignition
37 interlock device and that the person is required to have a valid
38 driver's license before the person can drive.

39 (v) The person is subject to the requirements of this section
40 when the person purchases or has access to a vehicle.

1 (B) The person's driver's license record has been restricted
2 pursuant to subdivision (d).

3 (C) The person complies with this section immediately upon
4 commencing operation of a vehicle subject to the required
5 installation of a functioning, certified ignition interlock device.

6 (2) A person who has been granted an exemption pursuant to
7 this subdivision and who subsequently drives a vehicle in violation
8 of the exemption is subject to the penalties of subdivision (i) in
9 addition to any other applicable penalties in law.

10 (h) This section does not permit a person to drive without a
11 valid driver's license.

12 (i) A person who is required under subdivision (c) to install a
13 functioning, certified ignition interlock device who willfully fails
14 to install the ignition interlock device within the time period
15 required under subdivision (c) is guilty of a misdemeanor and shall
16 be punished by imprisonment in a county jail for not more than
17 six months or by a fine of not more than five thousand dollars
18 (\$5,000), or by both that fine and imprisonment.

19 (j) In addition to all other requirements of this code, a person
20 convicted of any of the following violations shall be punished as
21 follows:

22 (1) Upon a conviction of a violation of Section 14601.2,
23 14601.4, or 14601.5 subsequent to one prior conviction of a
24 violation of Section 23103.5, 23152, or 23153, within a 10-year
25 period, the person shall immediately install a functioning, certified
26 ignition interlock device, pursuant to this section, in all vehicles
27 operated by that person for a term of one year.

28 (2) Upon a conviction of a violation of Section 14601.2,
29 14601.4, or 14601.5 subsequent to two prior convictions of a
30 violation of Section 23103.5, 23152, or 23153, within a 10-year
31 period, or one prior conviction of Section 14601.2, 14601.4, or
32 14601.5, within a 10-year period, the person shall immediately
33 install a functioning, certified ignition interlock device, pursuant
34 to this section, in all vehicles operated by that person for a term
35 of two years.

36 (3) Upon a conviction of a violation of Section 14601.2,
37 14601.4, or 14601.5 subsequent to three or more prior convictions
38 of a violation of Section 23103.5, 23152, or 23153, within a
39 10-year period, or two or more prior convictions of Section
40 14601.2, 14601.4, or 14601.5, within a 10-year period, the person

1 shall immediately install a functioning, certified ignition interlock
2 device, pursuant to this section, in all vehicles operated by that
3 person for a term of three years.

4 (k) The department shall notify the court if a person subject to
5 this section has failed to show proof of installation within 30 days
6 of the department informing the person they are required to install
7 a functioning, certified ignition interlock device.

8 (l) Subdivisions (j), (k), (m), (n), and (o) of Section 23575 apply
9 to this section.

10 (m) The requirements of this section are in addition to any other
11 requirements of law.

12 (n) This section shall become operative January 1, 2026.

13 ~~SEC. 123.~~

14 *SEC. 82.* Section 23575.3 of the Vehicle Code is amended to
15 read:

16 23575.3. (a) In addition to any other requirement imposed by
17 law, a court shall notify a person convicted of a violation listed in
18 subdivision (h) that the person is required to install a functioning,
19 certified ignition interlock device on any vehicle that the person
20 operates and that the person is prohibited from operating a motor
21 vehicle unless that vehicle is equipped with a functioning, certified
22 ignition interlock device in accordance with this section.

23 (b) The Department of Motor Vehicles, upon receipt of the
24 court's abstract of conviction for a violation listed in subdivision
25 (h), shall inform the convicted person of the requirements of this
26 section, including the term for which the person is required to have
27 a certified ignition interlock device installed. The records of the
28 department shall reflect the mandatory use of the device for the
29 term required and the time when the device is required to be
30 installed by this code.

31 (c) The department shall advise the person that installation of
32 a functioning, certified ignition interlock device on a vehicle does
33 not allow the person to drive without a valid driver's license.

34 (d) (1) A person who is notified by the department pursuant to
35 subdivision (b) shall do ~~both~~ *all* of the following:

36 (A) Arrange for each vehicle operated by the person to be
37 equipped with a functioning, certified ignition interlock device by
38 a certified ignition interlock device provider under Section 13386.

1 (B) Provide to the department proof of installation by submitting
2 the "Verification of Installation" form described in paragraph (2)
3 of subdivision (g) of Section 13386.

4 (C) *Pay a fee, determined by the department, that is sufficient*
5 *to cover the costs of administration of this section.*

6 (2) A person who is notified by the department pursuant to
7 subdivision (b), is exempt from the requirements of this subdivision
8 until the time the person purchases or has access to a vehicle if,
9 within 30 days of the notification, the person certifies to the
10 department all of the following:

11 (A) The person does not own a vehicle.

12 (B) The person does not have access to a vehicle at the person's
13 residence.

14 (C) The person no longer has access to the vehicle the person
15 was driving at the time the person was arrested for a violation that
16 subsequently resulted in a conviction for a violation listed in
17 subdivision (h).

18 (D) The person acknowledges that the person is only allowed
19 to drive a vehicle that is equipped with a functioning, certified
20 ignition interlock device.

21 (E) The person acknowledges that the person is required to have
22 a valid driver's license before the person can drive.

23 (F) The person acknowledges that the person is subject to the
24 requirements of this section when the person purchases or has
25 access to a vehicle.

26 (3) The person shall not be responsible for the costs of the
27 certified ignition interlock device or for servicing by installers.

28 (e) In addition to any other restrictions the department places
29 on the driver's license record of the convicted person when the
30 person is issued a restricted driver's license pursuant to Section
31 13352 or 13352.4, the department shall place a restriction on the
32 driver's license record of the person that states the driver is
33 restricted to driving only vehicles equipped with a functioning,
34 certified ignition interlock device for the applicable term.

35 (f) (1) A person who is notified by the department pursuant to
36 subdivision (b) shall arrange for each vehicle with a functioning,
37 certified ignition interlock device to be serviced by the installer at
38 least once every 60 days in order for the installer to recalibrate and
39 monitor the operation of the device.

1 (2) The installer shall notify the department if the device is
2 removed or indicates that the person has attempted to remove,
3 bypass, or tamper with the device, or if the person fails three or
4 more times to comply with any requirement for the maintenance
5 or calibration of the ignition interlock device.

6 (g) The department shall monitor the installation and
7 maintenance of the ignition interlock device installed pursuant to
8 subdivision (d).

9 (h) A person is required to install a functioning, certified ignition
10 interlock device pursuant to this section for the applicable term,
11 as follows:

12 (1) A person convicted of a violation of subdivision (a), (b),
13 (d), (e), or (g) of Section 23152 shall be required to do the
14 following, as applicable:

15 (A) Upon a conviction with no priors, punishable under Section
16 23536, only one of the following may occur:

17 (i) The court may order installation of a functioning, certified
18 ignition interlock device on any vehicle that the person operates
19 and prohibit that person from operating a motor vehicle unless that
20 vehicle is equipped with a functioning, certified ignition interlock
21 device. If the court orders the ignition interlock device restriction,
22 the term shall be determined by the court for a period not to exceed
23 six months from the date of conviction. The court shall notify the
24 department of the conviction as specified in subdivision (a) of
25 Section 1803 or Section 1816, and shall specify the terms of the
26 ignition interlock device restriction in accordance with subdivision
27 (a) of Section 1804. The department shall place the restriction on
28 the driver's license record of the person that states the driver is
29 restricted to driving only vehicles equipped with a functioning,
30 certified ignition interlock device for the applicable term.

31 (ii) The person may apply to the department for a restriction of
32 the driving privilege under Section 13352.4.

33 (iii) The person may apply to the department for a restriction
34 of the driving privilege under paragraph (1) of subdivision (a) of
35 Section 13352 or subdivision (c) of Section 13352.1.

36 (B) Upon a conviction with one prior, punishable under Section
37 23540, the person shall install a functioning, certified ignition
38 interlock device in the vehicle, as ordered by the court, that is
39 operated by that person for a mandatory term of 12 months.

1 (C) Upon a conviction with two priors, punishable under Section
2 23546, the person shall install a functioning, certified ignition
3 interlock device in the vehicle, as ordered by the court, that is
4 operated by that person for a mandatory term of 24 months.

5 (D) Upon a conviction with three or more priors punishable
6 under Section 23550, or a conviction punishable under Section
7 23550.5, the person shall install a functioning, certified ignition
8 interlock device in the vehicle, as ordered by the court, that is
9 operated by that person for a mandatory term of 36 months.

10 (2) A person convicted of a violation of subdivision (a), (b),
11 (d), (e), or (g) of Section 23153 shall install a functioning, certified
12 ignition interlock device, as follows:

13 (A) Upon a conviction with no priors, punishable under Section
14 23554, the person shall install a functioning, certified ignition
15 interlock device in the vehicle, as ordered by the court, that is
16 operated by that person for a mandatory term of 12 months.

17 (B) Upon a conviction with one prior, punishable under Section
18 23560, the person shall install a functioning, certified ignition
19 interlock device in the vehicle, as ordered by the court, that is
20 operated by that person for a mandatory term of 24 months.

21 (C) Upon a conviction with two priors, punishable under Section
22 23550 or 23566, the person shall install a functioning, certified
23 ignition interlock device in the vehicle, as ordered by the court,
24 that is operated by that person for a mandatory term of 36 months.

25 (D) Upon a conviction with one prior punishable under Section
26 23550.5, the person shall install a functioning, certified ignition
27 interlock device in the vehicle, as ordered by the court, that is
28 operated by that person for a mandatory term of 48 months.

29 (3) For the purposes of paragraphs (1) and (2), "prior" means
30 a conviction for a separate violation of Section 23103, as specified
31 in Section 23103.5, or Section 23152 or 23153, subdivision (a) or
32 (b) of Section 191.5 of, or subdivision (a) of Section 192.5 of, the
33 Penal Code, or subdivision (b), (c), (d), (e), or (f) of Section 655
34 of the Harbors and Navigation Code, that occurred within 10 years
35 of the current violation.

36 (4) The terms prescribed in this subdivision shall begin once a
37 person has complied with subparagraph (B) of paragraph (1) of
38 subdivision (d) and either upon the reinstatement of the privilege
39 to drive pursuant to Section 13352 or the issuance of a restricted
40 driver's license pursuant to Section 13352. A person shall receive

1 credit for any period in which the person had a restricted driver's
2 license issued pursuant to Section 13353.6 or 13353.75.

3 (i) Subdivisions (g), (h), (j), and (k) of Section 23575 apply to
4 this section.

5 (j) If a person fails to comply with any of the requirements
6 regarding ignition interlock devices, the period in which the person
7 was not in compliance shall not be credited towards the mandatory
8 term for which the ignition interlock device is required to be
9 installed.

10 (k) This section does not permit a person to drive without a
11 valid driver's license.

12 (l) The requirements of this section are in addition to any other
13 requirements of law.

14 (m) For the purposes of this section, the following definitions
15 apply:

16 (1) "Bypass" means either of the following:

17 (A) Failure to take any random retest.

18 (B) Failure to pass a random retest with a breath alcohol
19 concentration not exceeding 0.03 percent, by weight of alcohol,
20 in the person's blood.

21 (2) "Operates" includes operating a vehicle that is not owned
22 by the person subject to this section.

23 (3) "Owned" means solely owned or owned in conjunction with
24 another person or legal entity.

25 (4) "Random retest" means a breath test performed by the driver
26 upon a certified ignition interlock device at random intervals after
27 the initial engine startup breath test and while the vehicle's motor
28 is running.

29 (5) "Vehicle" does not include a motorcycle until the state
30 certifies an ignition interlock device that can be installed on a
31 motorcycle. A person subject to an ignition interlock device
32 restriction shall not operate a motorcycle for the duration of the
33 ignition interlock device restriction period.

34 (n) The requirements of this section shall apply only to a person
35 who is convicted for a violation of Section 23152 or 23153 that
36 occurred on or after January 1, 2019.

37 (o) This section shall become operative on January 1, 2019.

38 (p) This section shall remain in effect only until January 1, 2026,
39 and as of that date is repealed, unless a later enacted statute, that
40 is enacted before January 1, 2026, deletes or extends that date.

1 ~~SEC. 124.~~

2 *SEC. 83.* Section 40508.5 of the Vehicle Code is repealed.

3 ~~SEC. 125.~~ Section 40508.6 of the Vehicle Code is repealed.

4 ~~SEC. 126.~~

5 *SEC. 84.* Section 40509 of the Vehicle Code is amended to
6 read:

7 40509. (a) Except as required under subdivision (b) of Section
8 40509.5, if a person has violated a written promise to appear or a
9 lawfully granted continuance of a promise to appear in court or
10 before the person authorized to receive a deposit of bail, or violated
11 an order to appear in court, including, but not limited to, a written
12 notice to appear issued in accordance with Section 40518, the
13 magistrate or clerk of the court may give notice of the failure to
14 appear to the department for any violation of this code, or any
15 violation that can be heard by a juvenile traffic hearing referee
16 pursuant to Section 256 of the Welfare and Institutions Code, or
17 any violation of any other statute relating to the safe operation of
18 a vehicle, except violations not required to be reported pursuant
19 to paragraphs (1), (2), (3), (6), and (7) of subdivision (b) of Section
20 1803. If thereafter the case in which the promise was given is
21 adjudicated or the person who has violated the court order appears
22 in court or otherwise satisfies the order of the court, the magistrate
23 or clerk of the court hearing the case shall sign and file with the
24 department a certificate to that effect.

25 (b) (1) Notwithstanding subdivision (a), the court may notify
26 the department of the total amount of bail, fines, and assessments
27 authorized or required by this code that are unpaid by a person.

28 (2) Once a court has established the amount of bail, fines, and
29 assessments and notified the department, the court shall not further
30 enhance or modify that amount.

31 (3) This subdivision applies only to violations of this code that
32 do not require a mandatory court appearance, are not contested by
33 the defendant, and do not require proof of correction certified by
34 the court.

35 (c) Any violation subject to Section 40001 that is the
36 responsibility of the owner of the vehicle shall not be reported
37 under this section.

38 ~~SEC. 127.~~

39 *SEC. 85.* Section 40510.5 of the Vehicle Code is amended to
40 read:

1 40510.5. (a) The clerk of the court may accept a payment and
2 forfeiture of at least 10 percent of the total bail amount for each
3 infraction violation of this code prior to the date on which the
4 defendant promised to appear, or prior to the expiration of any
5 lawful continuance of that date, or upon receipt of information that
6 an action has been filed and prior to the scheduled court date, if
7 all of the following circumstances exist:

8 (1) The defendant is charged with an infraction violation of this
9 code or an infraction violation of an ordinance adopted pursuant
10 to this code.

11 (2) The defendant submits proof of correction, when proof of
12 correction is mandatory for a correctable offense.

13 (3) The offense does not require an appearance in court.

14 (4) The defendant signs a written agreement to pay and forfeit
15 the remainder of the required bail according to an installment
16 schedule as agreed upon with the court. The Judicial Council shall
17 prescribe the form of the agreement for payment and forfeiture of
18 bail in installments for infraction violations.

19 (b) When a clerk accepts an agreement for payment and
20 forfeiture of bail in installments, the clerk shall continue the
21 appearance date of the defendant to the date to complete payment
22 and forfeiture of bail in the agreement.

23 (c) Except for subdivisions (b) and (c) of Section 1269b and
24 Section 1305.1, the provisions of Chapter 1 (commencing with
25 Section 1268) of Title 10 of Part 2 of the Penal Code do not apply
26 to an agreement to pay and forfeit bail in installments under this
27 section.

28 (d) For the purposes of reporting violations of this code to the
29 department under Section 1803, the date that the defendant signs
30 an agreement to pay and forfeit bail in installments shall be
31 reported as the date of conviction.

32 (e) Payment of a bail amount under this section is forfeited when
33 collected and shall be distributed by the court in the same manner
34 as other fines, penalties, and forfeitures collected for infractions.

35 ~~SEC. 128.~~

36 *SEC. 86.* Section 40512 of the Vehicle Code is amended to
37 read:

38 40512. (a) (1) Except as specified in paragraph (2) and
39 subdivision (b), if at the time the case is called for arraignment
40 before the magistrate the defendant does not appear, either in

1 person or by counsel, the magistrate may declare the bail forfeited
2 and may, in the magistrate's discretion, order that no further
3 proceedings be had in the case, unless the defendant has been
4 charged with a violation of Section 23111 or 23112, or subdivision
5 (a) of Section 23113, and has been previously convicted of the
6 same offense, except if the magistrate finds that undue hardship
7 will be imposed upon the defendant by requiring the defendant to
8 appear, the magistrate may declare the bail forfeited and order that
9 no further proceedings shall be had in the case.

10 (2) If the defendant has posted surety bail and the magistrate
11 has ordered the bail forfeited and that no further proceedings shall
12 be had in the case, the bail retains the right to obtain relief from
13 the forfeiture as provided in Section 1305 of the Penal Code if the
14 amount of the bond, money, or property deposited exceeds seven
15 hundred dollars (\$700).

16 (b) (1) If, at the time the case is called for a compliance
17 appearance before the magistrate, the defendant has entered into
18 a bail installment agreement pursuant to Section 40510.5 but has
19 not made an installment payment as agreed and does not appear,
20 either in person or by counsel, the court may continue the
21 arraignment to a date beyond the last agreed upon installment
22 payment or issue a warrant of arrest.

23 (2) If, at the time the case is called for a compliance appearance
24 before the magistrate, the defendant has paid all required bail funds
25 and the defendant does not appear, either in person or by counsel,
26 the court may order that no further proceedings shall be had in the
27 case, unless the defendant has been charged with a violation of
28 Section 23111 or 23112, or subdivision (a) of Section 23113, and
29 has been previously convicted of the same offense, except that if
30 the magistrate finds that undue hardship will be imposed upon the
31 defendant by requiring the defendant to appear, the magistrate may
32 order that no further proceedings shall be had in the case.

33 (c) Upon the making of the order that no further proceedings
34 shall be had, all sums deposited as bail shall be paid into the city
35 or county treasury, as the case may be.

36 (d) If a guaranteed traffic arrest bail bond certificate has been
37 filed, the clerk of the court shall bill the issuer for the amount of
38 bail fixed by the uniform countywide schedule of bail required
39 under subdivision (c) of Section 1269b of the Penal Code.

1 (e) Upon presentation by a court of the bill for a fine or bail
2 assessed against an individual covered by a guaranteed traffic
3 arrest bail bond certificate, the issuer shall pay to the court the
4 amount of the fine or forfeited bail that is within the maximum
5 amount guaranteed by the terms of the certificate.

6 (f) The court shall return the guaranteed traffic arrest bail bond
7 certificate to the issuer upon receipt of payment in accordance with
8 subdivision (d).

9 ~~SEC. 129. Section 40611 of the Vehicle Code is repealed.~~

10 ~~SEC. 130. Section 42003 of the Vehicle Code is amended to~~
11 ~~read:~~

12 ~~42003. (a) A judgment that a person convicted of an infraction~~
13 ~~be punished by a fine may also provide for the payment to be made~~
14 ~~within a specified time or in specified installments. A judgment~~
15 ~~granting a defendant time to pay the fine shall order that if the~~
16 ~~defendant fails to pay the fine or any installment thereof on the~~
17 ~~date that it is due, the defendant shall appear in court on that date~~
18 ~~for further proceedings. Willful violation of the order is punishable~~
19 ~~as contempt.~~

20 ~~(b) A judgment that a person convicted of any other violation~~
21 ~~of this code be punished by a fine may also order, adjudge, and~~
22 ~~decree that the person be imprisoned until the fine is satisfied. In~~
23 ~~all of these cases, the judgment shall specify the extent of the~~
24 ~~imprisonment which shall not exceed one day for every thirty~~
25 ~~dollars (\$30) of the fine, nor extend in this case beyond the term~~
26 ~~for which the defendant might be sentenced to imprisonment for~~
27 ~~the offense of which the defendant was convicted.~~

28 ~~(c) In any case when a person appears before a traffic referee~~
29 ~~or judge of the superior court for adjudication of a violation of this~~
30 ~~code, the court, upon request of the defendant, shall consider the~~
31 ~~defendant's ability to pay the fine. Consideration of a defendant's~~
32 ~~ability to pay the fine may include the defendant's future earning~~
33 ~~capacity. A defendant shall bear the burden of demonstrating lack~~
34 ~~of the defendant's ability to pay. Express findings by the court as~~
35 ~~to the factors bearing on the amount of the fine shall not be~~
36 ~~required. The court shall order the defendant to appear before a~~
37 ~~county officer designated by the court to make an inquiry into the~~
38 ~~ability of the defendant to pay all or a portion of the fine. At that~~
39 ~~hearing, the defendant shall be entitled to have, but shall not be~~
40 ~~limited to, the opportunity to be heard in person, to present~~

1 ~~witnesses and other documentary evidence, to confront and~~
2 ~~cross-examine adverse witnesses, to disclosure of the evidence~~
3 ~~against them, and to a written statement of the findings of the court~~
4 ~~or the county officer. If the court determines that the defendant~~
5 ~~has the ability to pay all or part of the costs, the court shall set the~~
6 ~~amount to be reimbursed and order the defendant to pay that sum~~
7 ~~to the county in the manner in which the court believes reasonable~~
8 ~~and compatible with the defendant's financial ability; or, with the~~
9 ~~consent of a defendant who is placed on probation, the court shall~~
10 ~~order the probation officer to set the amount of payment, which~~
11 ~~shall not exceed the maximum amount set by the court, and the~~
12 ~~manner in which the payment shall be made to the county. In~~
13 ~~making a determination of whether a defendant has the ability to~~
14 ~~pay, the court shall take into account any amount the defendant~~
15 ~~has been ordered to pay in restitution.~~

16 ~~The court may hold additional hearings during the probationary~~
17 ~~period. If practicable, the court or the probation officer shall order~~
18 ~~payments to be made on a monthly basis. Execution may be issued~~
19 ~~on the order in the same manner as a judgment in a civil action.~~
20 ~~The order to pay all or part of the costs shall not be enforced by~~
21 ~~contempt.~~

22 ~~(d) The term "ability to pay" means the overall capability of the~~
23 ~~defendant to pay the fine or a portion of the fine and includes, but~~
24 ~~is not limited to, all of the following regarding the defendant:~~

25 ~~(1) Present financial position:~~

26 ~~(2) Reasonably discernible future financial position. In no event~~
27 ~~shall the court consider a period of more than six months from the~~
28 ~~date of the hearing for purposes of determining reasonably~~
29 ~~discernible future financial position.~~

30 ~~(3) Likelihood that the defendant will be able to obtain~~
31 ~~employment within the six-month period from the date of the~~
32 ~~hearing.~~

33 ~~(4) Any other factors that may bear upon the defendant's~~
34 ~~financial capability to pay the fine.~~

35 ~~(c) At any time during the pendency of the judgment rendered~~
36 ~~according to the terms of this section, a defendant against whom~~
37 ~~a judgment has been rendered may petition the rendering court to~~
38 ~~modify or vacate its previous judgment on the grounds of a change~~
39 ~~of circumstances with regard to the defendant's ability to pay the~~

1 judgment. The court shall advise the defendant of this right at the
2 time of rendering of the judgment.

3 ~~SEC. 131.~~

4 *SEC. 87.* Section 42007 of the Vehicle Code is amended to
5 read:

6 42007. (a) (1) The clerk of the court shall collect a fee from
7 every person who is ordered or permitted to attend a traffic violator
8 school pursuant to Section 41501 or 42005 in an amount equal to
9 the total bail set forth for the eligible offense on the uniform
10 countywide bail schedule. As used in this subdivision, "total bail"
11 means the amount established pursuant to Section 1269b of the
12 Penal Code in accordance with the Uniform Bail and Penalty
13 Schedule adopted by the Judicial Council, including all
14 assessments, surcharges, and penalty amounts. Where multiple
15 offenses are charged in a single notice to appear, the "total bail"
16 is the amount applicable for the greater of the qualifying offenses.
17 However, the court may determine a lesser fee under this
18 subdivision upon a showing that the defendant is unable to pay
19 the full amount.

20 The fee shall not include the cost, or any part thereof, of traffic
21 safety instruction offered by a traffic violator school.

22 (2) The clerk may accept from a defendant who is ordered or
23 permitted to attend traffic violator school a payment of at least 10
24 percent of the fee required by paragraph (1) upon filing a written
25 agreement by the defendant to pay the remainder of the fee
26 according to an installment payment schedule of no more than 90
27 days as agreed upon with the court. The Judicial Council shall
28 prescribe the form of the agreement for payment of the fee in
29 installments. When the defendant signs the Judicial Council form
30 for payment of the fee in installments, the court shall continue the
31 case to the date in the agreement to complete payment of the fee
32 and submit the certificate of completion of traffic violator school
33 to the court. *The clerk shall collect a fee of up to thirty-five dollars*
34 *(\$35) to cover administrative and clerical costs for processing an*
35 *installment payment of the traffic violator school fee under this*
36 *paragraph.*

37 (3) If a defendant fails to make an installment payment of the
38 fee according to an installment agreement, the court may convert
39 the fee to bail, declare it forfeited, and report the forfeiture as a
40 conviction under Section 1803. The court may also charge a failure

1 to pay under Section 40508 or issue an arrest warrant for a failure
2 to pay. For the purposes of reporting a conviction under this
3 subdivision to the department under Section 1803, the date that
4 the court declares the bail forfeited shall be reported as the date
5 of conviction.

6 (b) Revenues derived from the fee collected under this section
7 shall be deposited in accordance with Section 68084 of the
8 Government Code in the general fund of the county and, as may
9 be applicable, distributed as follows:

10 (1) In any county in which a fund is established pursuant to
11 Section 76100 or 76101 of the Government Code, the sum of one
12 dollar (\$1) for each fund so established shall be deposited with the
13 county treasurer and placed in that fund.

14 (2) In any county that has established a Maddy Emergency
15 Medical Services Fund pursuant to Section 1797.98a of the Health
16 and Safety Code, an amount equal to the sum of each two dollars
17 (\$2) for every seven dollars (\$7) that would have been collected
18 pursuant to Section 76000 of the Government Code and,
19 commencing January 1, 2009, an amount equal to the sum of each
20 two dollars (\$2) for every ten dollars (\$10) that would have been
21 collected pursuant to Section 76000.5 of the Government Code
22 with respect to those counties to which that section is applicable
23 shall be deposited in that fund. Nothing in the act that added this
24 paragraph shall be interpreted in a manner that would result in
25 either of the following:

26 (A) The utilization of penalty assessment funds that had been
27 set aside, on or before January 1, 2000, to finance debt service on
28 a capital facility that existed before January 1, 2000.

29 (B) The reduction of the availability of penalty assessment
30 revenues that had been pledged, on or before January 1, 2000, as
31 a means of financing a facility which was approved by a county
32 board of supervisors, but on January 1, 2000, is not under
33 construction.

34 (3) The amount of the fee that is attributable to Section 70372
35 of the Government Code shall be transferred pursuant to
36 subdivision (f) of that section.

37 (c) For fees resulting from city arrests, an amount equal to the
38 amount of base fines that would have been deposited in the treasury
39 of the appropriate city pursuant to paragraph (3) of subdivision

1 (b) of Section 1463.001 of the Penal Code shall be deposited in
2 the treasury of the appropriate city.

3 (d) The clerk of the court, in a county that offers traffic school
4 shall include in any courtesy notice mailed to a defendant for an
5 offense that qualifies for traffic school attendance the following
6 statement:
7

8 NOTICE: If you are eligible and decide not to attend traffic
9 school your automobile insurance may be adversely affected. For
10 drivers with a noncommercial driver's license, one conviction in
11 any 18-month period will be held confidential and not show on
12 your driving record if you complete a traffic violator school
13 program. For drivers with a commercial driver's license, one
14 conviction in any 18-month period will show on your driving
15 record without a violation point if you complete a traffic violator
16 school program.
17

18 (e) Notwithstanding any other provision of law, a county that
19 has established a Maddy Emergency Medical Services Fund
20 pursuant to Section 1797.98a of the Health and Safety Code shall
21 not be held liable for having deposited into the fund, prior to
22 January 1, 2009, an amount equal to two dollars (\$2) for every ten
23 dollars (\$10) that would have been collected pursuant to Section
24 76000.5 of the Government Code from revenues derived from
25 traffic violator school fees collected pursuant to this section.

26 ~~SEC. 132. Section 42007.1 of the Vehicle Code is amended to~~
27 ~~read:~~

28 ~~42007.1. (a) The amount collected by the clerk pursuant to~~
29 ~~subdivision (a) of Section 42007 shall be in an amount equal to~~
30 ~~the total bail set forth for the eligible offense on the uniform~~
31 ~~countywide bail schedule.~~

32 ~~SEC. 133. Section 42007.3 of the Vehicle Code is amended to~~
33 ~~read:~~

34 ~~42007.3. Notwithstanding Section 42007, revenues derived~~
35 ~~from fees collected under Section 42007 from each person required~~
36 ~~or permitted to attend traffic violator school pursuant to Section~~
37 ~~41501 or 42005 as a result of a violation of subdivision (a) or (c)~~
38 ~~of Section 21453, subdivision (c) of Section 21454, or subdivision~~
39 ~~(a) of Section 21457 shall be allocated as follows:~~

1 (a) The first 30 percent of the amount collected shall be allocated
2 to the general fund of the city or county in which the offense
3 occurred.

4 (b) The balance of the amount collected shall be deposited by
5 the county treasurer under Section 42007.

6 ~~SEC. 134.~~ Section 42007.4 of the Vehicle Code is amended to
7 read:

8 ~~42007.4.~~ Notwithstanding ~~Section 42007,~~ revenues derived
9 from fees collected under ~~Section 42007~~ from each person required
10 or permitted to attend traffic violator school pursuant to ~~Section~~
11 ~~369b~~ of the Penal Code as a result of a violation of subdivision (c)
12 of ~~Section 21752,~~ involving railroad grade crossings, or ~~Section~~
13 ~~22451 or 22452~~ shall be allocated as follows:

14 (a) If the offense occurred in an area where a transit district or
15 transportation commission established under ~~Division 12~~
16 (~~commencing with Section 130000~~) of the Public Utilities Code
17 provides rail transportation, the first 30 percent of the amount
18 collected shall be allocated to the general fund of that transit district
19 or transportation commission to be used only for public safety and
20 public education purposes relating to railroad grade crossings.

21 (b) If there is no transit district or transportation commission
22 providing rail transportation in the area where the offense occurred,
23 the first 30 percent of the amount collected shall be allocated to
24 the general fund of the county in which the offense occurred, to
25 be used only for public safety and public education purposes
26 relating to railroad grade crossings.

27 (c) The balance of the amount collected shall be deposited by
28 the county treasurer under ~~Section 1463~~ of the Penal Code.

29 (d) A transit district, transportation commission, or a county
30 that is allocated funds pursuant to subdivision (a) or (b) shall
31 provide public safety and public education relating to railroad
32 grade crossings only to the extent that those purposes are funded
33 by the allocations provided pursuant to subdivision (a) or (b).

34 ~~SEC. 135.~~

35 ~~SEC. 88.~~ Section 42008.5 of the Vehicle Code is amended to
36 read:

37 42008.5. (a) A county may establish a one-time amnesty
38 program for fines and bail that have been delinquent for not less
39 than six months as of the date upon which the program commences
40 and were imposed for an infraction or misdemeanor violation of

1 this code, except parking violations of this code and violations of
2 Section 23103, 23104, 23105, 23152, or 23153.

3 (b) A person owing a fine or bail that is eligible for amnesty
4 under the program may pay to the superior or juvenile court the
5 amount scheduled by the court, that shall be accepted by the court
6 in full satisfaction of the delinquent fine or bail and shall be either
7 of the following:

8 (1) Seventy percent of the total fine or bail.

9 (2) The amount of one hundred dollars (\$100) for an infraction
10 or five hundred dollars (\$500) for a misdemeanor.

11 (c) The amnesty program shall be implemented by the courts
12 of the county on a one-time basis and conducted in accordance
13 with Judicial Council guidelines for a period of not less than 120
14 days. The program shall operate not longer than six months from
15 the date the court initiates the program.

16 (d) No criminal action shall be brought against a person for a
17 delinquent fine or bail paid under the amnesty program and no
18 other additional penalties shall be assessed for the late payment
19 of the fine or bail made under the amnesty program.

20 (e) Notwithstanding Section 1463 of the Penal Code, the total
21 amount of funds collected by the courts pursuant to the amnesty
22 program shall be deposited in the county treasury until 150 percent
23 of the cost of operating the program, excluding capital
24 expenditures, have been so deposited. Thereafter, 37 percent of
25 the amount of the delinquent fines and bail deposited in the county
26 treasury shall be distributed by the county pursuant to Section 1464
27 of the Penal Code, 26 percent of the amount deposited shall be
28 distributed by the county pursuant to Article 2 (commencing with
29 Section 76100) of Chapter 12 of Title 8 of the Government Code,
30 and the remaining 37 percent of the amount deposited shall be
31 retained by the county.

32 (f) The deposit of fines and bails in the county treasury as
33 described in subdivision (e) is limited to the amnesty program
34 described in this section, and it is the intent of the Legislature that
35 it shall not be considered a precedent with respect to affecting
36 programs that receive funding pursuant to Section 1463 of the
37 Penal Code.

38 (g) Each county participating in the program shall file, not later
39 than six months after the termination of the program, a written
40 report with the Assembly Committee on Judiciary and the Senate

1 Committee on Judiciary. The report shall summarize the amount
2 of money collected, operating costs of the program, distribution
3 of funds collected, and when possible, how the funds were
4 expended.

5 ~~SEC. 136.~~

6 *SEC. 89.* Section 42008.7 of the Vehicle Code is amended to
7 read:

8 42008.7. (a) The State of California continues to face a fiscal
9 and economic crisis affecting the State Budget and the overall state
10 economy. In light of this crisis, a one-time infraction amnesty
11 program would do the following:

12 (1) Provide relief to individuals who have found themselves in
13 violation of a court-ordered obligation because they are financially
14 unable to pay traffic bail or fines.

15 (2) Provide increased revenue at a time when revenue is scarce
16 by encouraging payment of old fines that have remained unpaid.

17 (3) Allow courts and counties to resolve older delinquent cases
18 and focus limited resources on collecting on more recent cases.

19 (b) A one-time amnesty program for fines and bail meeting the
20 eligibility requirements set forth in subdivision (e) shall be
21 established in each county. Unless agreed otherwise by the court
22 and the county in writing, the government entities that are
23 responsible for the collection of delinquent court-ordered debt
24 shall be responsible for implementation of the amnesty program
25 as to that debt, maintaining the same division of responsibility in
26 place with respect to the collection of court-ordered debt under
27 subdivision (b) of Section 1463.010 of the Penal Code.

28 (c) As used in this section, the term "fine" or "bail" refers to
29 the total amounts due in connection with a specific violation, which
30 ~~include, but are~~ *includes, but is* not limited to, the following:

31 (1) Base fine or bail, as established by court order, by statute,
32 or by the court's bail schedule.

33 (2) Penalty assessments imposed pursuant to Section 1464 of
34 the Penal Code and Sections 70372, 76000, 76000.5, 76104.6, and
35 76104.7 of the Government Code.

36 (3) State surcharge imposed pursuant to Section 1465.7 of the
37 Penal Code.

38 (4) Court security fee imposed pursuant to Section 1465.8 of
39 the Penal Code.

1 (d) In addition to and at the same time as the mandatory one-time
2 amnesty program is established pursuant to subdivision (b), the
3 court and the county may jointly agree to extend that amnesty
4 program to fines and bail imposed for a misdemeanor violation of
5 this code and a violation of Section 853.7 of the Penal Code added
6 to the misdemeanor case otherwise subject to the amnesty. The
7 amnesty program authorized pursuant to this subdivision shall not
8 apply to parking violations and violations of Section 23103, 23104,
9 23105, 23152, or 23153 of this code.

10 (e) Violations are only eligible for amnesty if paragraph (1),
11 (2), or (3) applies and the requirements of paragraphs (4), (5), and
12 (6) are met:

13 (1) The violation is an infraction violation filed with the court.

14 (2) It is a violation of subdivision (a) or (b) of Section 40508,
15 or a violation of Section 853.7 of the Penal Code added to the case
16 subject to paragraph (1).

17 (3) The violation is a misdemeanor violation filed with the court
18 to which subdivision (d) applies.

19 (4) The due date for payment of the fine or bail was on or before
20 January 1, 2009.

21 (5) The defendant does not owe victim restitution on any case
22 within the county.

23 (6) There are no outstanding misdemeanor or felony warrants
24 for the defendant within the county, except for misdemeanor
25 warrants for misdemeanor violations authorized by the court and
26 the county pursuant to subdivision (d).

27 (f) Each amnesty program shall accept, in full satisfaction of
28 any eligible fine or bail, 50 percent of the fine or bail amount, as
29 defined in subdivision (c) of this section. Payment of a fine or bail
30 under an amnesty program implemented pursuant to this section
31 shall be accepted beginning January 1, 2012, and ending June 30,
32 2012. The Judicial Council shall adopt guidelines for the amnesty
33 program no later than November 1, 2011, and each program shall
34 be conducted in accordance with Judicial Council guidelines.

35 (g) No criminal action shall be brought against a person for a
36 delinquent fine or bail paid under the amnesty program.

37 (h) The total amount of funds collected under the amnesty
38 program shall as soon as practical after receipt thereof be deposited
39 in the county treasury or the account established under Section
40 77009 of the Government Code. Any unreimbursed costs of

1 operating the amnesty program, excluding capital expenditures,
2 may be deducted from the revenues collected under the amnesty
3 program by the court or the county that incurred the expense of
4 operating the program. Notwithstanding Section 1203.1d of the
5 Penal Code, the remaining revenues collected under the amnesty
6 program shall be distributed on a pro rata basis in the same manner
7 as a partial payment distributed pursuant to Section 1462.5 of the
8 Penal Code.

9 (i) Each court or county implementing an amnesty program
10 shall file, not later than September 30, 2012, a written report with
11 the Judicial Council, on a form approved by the Judicial Council.
12 The report shall include information about the number of cases
13 resolved, the amount of money collected, and the operating costs
14 of the amnesty program. Notwithstanding Section 10231.5 of the
15 Government Code, on or before December 31, 2012, the Judicial
16 Council shall submit a report to the Legislature summarizing the
17 information provided by each court or county.

18 ~~SEC. 137. Section 42008.8 of the Vehicle Code is amended to~~
19 ~~read:~~

20 ~~42008.8. (a) The Legislature finds and declares that a one-time~~
21 ~~infraction amnesty program would do all of the following:~~

22 ~~(1) Provide relief to individuals who have found themselves in~~
23 ~~violation of a court-ordered obligation because they have unpaid~~
24 ~~traffic bail or fines.~~

25 ~~(2) Provide relief to individuals who have found themselves in~~
26 ~~violation of a court-ordered obligation or who have had their~~
27 ~~driving privileges suspended pursuant to Section 13365.~~

28 ~~(3) Provide increased revenue at a time when revenue is scarce~~
29 ~~by encouraging payment of old fines that have remained unpaid.~~

30 ~~(4) Allow courts and counties to resolve older delinquent cases~~
31 ~~and focus limited resources on collections for more recent cases.~~

32 ~~(b) A one-time amnesty program for unpaid fines and bail~~
33 ~~meeting the eligibility requirements set forth in subdivision (g)~~
34 ~~shall be established in each county. Unless agreed otherwise by~~
35 ~~the court and the county in writing, the government entities that~~
36 ~~are responsible for the collection of delinquent court-ordered debt~~
37 ~~shall be responsible for implementation of the amnesty program~~
38 ~~as to that debt, maintaining the same division of responsibility in~~
39 ~~place with respect to the collection of court-ordered debt under~~
40 ~~subdivision (b) of Section 1463.010 of the Penal Code.~~