

AMENDED IN SENATE MARCH 27, 2019

SENATE BILL

No. 144

Introduced by ~~Senator Mitchell~~ *Senators Mitchell and Hertzberg*

January 18, 2019

~~An act relating to criminal fees.~~ *An act to amend Sections 7158, 7159.5, 7159.14, 7161, 9807, 9848, and 9882.14 of the Business and Professions Code, to amend Sections 6157, 27706, 27707, 27750, 27752, 27756, 27757, 29550, 29551, 50050, 68085, 68085.1, 68085.5, 68085.7, 68085.8, 71380, 71386, 76000.10, 76223, 77009, 77203, and 77205 of, to add Section 6111 to, to repeal Sections 22712, 27753, 29550.1, 29550.2, and 29550.3 of, and to repeal and add Section 68635 of the Government Code, to amend Section 11374.5 of, to add Section 11470.5 to, and to repeal Section 11470.2 of, the Health and Safety Code, to amend Sections 273a, 273d, 273.1, 273.6, 290.06, 295, 597.3, 670, 987, 987.2, 1000.3, 1001.90, 1202.4, 1202.42, 1203, 1203.016, 1203.018, 1203.066, 1203.067, 1203.097, 1203.1, 1203.1a, 1203.1ab, 1203.1d, 1203.1i, 1203.4, 1203.4a, 1203.41, 1203.42, 1203.45, 1203.9, 1205, 1208, 1208.2, 1208.3, 1210.1, 1211, 1462.5, 1463, 1463.007, 1463.010, 1463.011, 1463.012, 1463.14, 1464.8, 2085.5, 2085.6, 2085.7, 3000.07, 4011.1, 4018.6, 4024.2, and 5008.2 of, to add Section 1465.9 to, and to repeal Sections 987.4, 987.5, 987.8, 987.81, 1001.15, 1001.16, 1203.1b, 1203.1bb, 1203.1c, 1203.1e, 1203.1h, 1203.1m, 1209, 1210.15, 1214.1, 1214.5, 1463.07, 3010.8, 4011.2, 5007.5, and 6266 of, the Penal Code, to amend Sections 11208, 13386, 21212, 23573, 23575.3, 40509, 40510.5, 40512, 42003, 42007, 42007.1, 42007.3, 42007.4, 42008.5, 42008.7, and 42008.8 of, to add Section 44237 to, and to repeal Sections 40508.5, 40508.6, and 40611, of, the Vehicle Code, and to amend Sections 903.45 and 904 of, and to repeal Section 903.3 of, the Welfare and Institutions Code, relating to fees.*

LEGISLATIVE COUNSEL'S DIGEST

SB 144, as amended, Mitchell. Fees: ~~criminal administrative fees.~~
Criminal fees.

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

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

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

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

(3) Existing law, as added by the Substance Abuse and Crime Prevention Act of 2000, adopted by voters as Proposition 36 at the November 7, 2000, statewide general election, requires that persons convicted of certain nonviolent drug possession offenses be granted probation and be placed in an appropriate drug treatment program.

The act allows the trial judge to require a person convicted of a nonviolent drug possession offense to contribute to the cost of their placement in a drug treatment program. The act allows its amendment by a statute passed by ²/₃ of both houses of the Legislature and requires that all amendments further the act and be consistent with its purposes.

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

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

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

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

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

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

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

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

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

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

~~This bill would state the intent of the Legislature to enact legislation to eliminate the range of administrative fees that agencies and courts are authorized to impose to fund elements of the criminal legal system, and to eliminate all outstanding debt incurred as a result of the imposition of administrative fees.~~

~~Vote: majority ²/₃. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.~~

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

- 1 *SECTION 1. The Legislature finds and declares all of the*
- 2 *following:*
- 3 *(a) Approximately 80 percent of Californians in jail are indigent*
- 4 *and too many enter the criminal justice system due to the*
- 5 *criminalization of their poverty.*
- 6 *(b) Incarcerated people are disproportionately Black or Latinx*
- 7 *because these populations are overpoliced, have higher rates of*
- 8 *convictions following an arrest, and have the highest rates of*
- 9 *poverty. In fact, while Black Californians represent only 7 percent*
- 10 *of the state population, they make up 23 percent of the Californians*
- 11 *on probation and are also grossly overrepresented in felony and*
- 12 *misdemeanor arrests.*

1 (c) People exiting jail or prison face higher rates of
2 unemployment and homelessness, due in part to racial
3 discrimination and the impact of their criminal conviction.

4 (d) The inability to meet basic needs has been found to
5 contribute to higher rates of recidivism and is a barrier to family
6 reunification.

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

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

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

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

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

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

38 SEC. 2. It is the intent of the Legislature to eliminate the range
39 of administrative fees that agencies and courts are authorized to
40 impose to fund elements of the criminal legal system and to

1 *eliminate all outstanding debt incurred as a result of the imposition*
2 *of administrative fees.*

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

5 7158. (a) Any person who shall accept or receive a completion
6 certificate or other evidence that performance of a contract for a
7 work of improvement, including but not limited to a home
8 improvement, is complete or satisfactorily concluded, with
9 knowledge that the document is false and that the performance is
10 not substantially completed, and who shall utter, offer, or use the
11 document in connection with the making or accepting of any
12 assignment or negotiation of the right to receive any payment from
13 the owner, under or in connection with a contract, or for the
14 purpose of obtaining or granting any credit or loan on the security
15 of the right to receive any payment shall be guilty of a
16 misdemeanor and subject to a fine of not less than five hundred
17 dollars (\$500) nor more than five thousand dollars (\$5,000), or to
18 imprisonment in the county jail for a term of not less than one
19 month nor more than one year, or both.

20 (b) Any person who violates this section as part of a plan or
21 scheme to defraud an owner of a residential or nonresidential
22 structure, including a mobilehome or manufactured home, in
23 connection with the offer or performance of repairs to the structure
24 for damage caused by a natural disaster, shall be ordered by the
25 court to make full restitution to the victim based on the person's
26 ability to pay, as defined in ~~subdivision (e) of Section 1203.1b of~~
27 ~~the Penal Code.~~ *paragraph (2) of subdivision (b) of Section 27755*
28 *of the Government Code.* In addition to full restitution, and
29 imprisonment authorized by subdivision (a), the court may impose
30 a fine of not less than five hundred dollars (\$500) nor more than
31 twenty-five thousand dollars (\$25,000), based upon the defendant's
32 ability to pay. This subdivision applies to natural disasters for
33 which a state of emergency is proclaimed by the Governor pursuant
34 to Section 8625 of the Government Code or for which an
35 emergency or major disaster is declared by the President of the
36 United States.

37 *SEC. 4. Section 7159.5 of the Business and Professions Code*
38 *is amended to read:*

39 7159.5. This section applies to all home improvement contracts,
40 as defined in Section 7151.2, between an owner or tenant and a

1 contractor, whether a general contractor or a specialty contractor,
2 that is licensed or subject to be licensed pursuant to this chapter
3 with regard to the transaction.

4 (a) Failure by the licensee or a person subject to be licensed
5 under this chapter, or by ~~his or her~~ *their* agent or salesperson, to
6 comply with the following provisions is cause for discipline:

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

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

14 (3) If a downpayment will be charged, the downpayment ~~may~~
15 *shall* not exceed one thousand dollars (\$1,000) or 10 percent of
16 the contract amount, whichever *amount* is less.

17 (4) If, in addition to a downpayment, the contract provides for
18 payments to be made prior to completion of the work, the contract
19 shall include a schedule of payments in dollars and cents
20 specifically referencing the amount of work or services to be
21 performed and any materials and equipment to be supplied.

22 (5) Except for a downpayment, the contractor ~~may~~ *shall* neither
23 request nor accept payment that exceeds the value of the work
24 performed or material delivered.

25 (6) Upon any payment by the person contracting for home
26 improvement, and prior to any further payment being made, the
27 contractor shall, if requested, obtain and furnish to the person a
28 full and unconditional release from any potential lien claimant
29 claim or mechanics lien authorized pursuant to Sections 8400 and
30 8404 of the Civil Code for any portion of the work for which
31 payment has been made. The person contracting for home
32 improvement may withhold all further payments until these releases
33 are furnished.

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

39 (8) A contractor furnishing a performance and payment bond,
40 lien and completion bond, or a bond equivalent or joint control

1 approved by the registrar covering full performance and payment
2 is exempt from paragraphs (3), (4), and (5), and need not include,
3 as part of the contract, the statement regarding the downpayment
4 specified in subparagraph (C) of paragraph (8) of subdivision (d)
5 of Section 7159, the details and statement regarding progress
6 payments specified in paragraph (9) of subdivision (d) of Section
7 7159, or the Mechanics Lien Warning specified in paragraph (4)
8 of subdivision (e) of Section 7159. A contractor furnishing these
9 bonds, bond equivalents, or a joint control approved by the registrar
10 may accept payment prior to completion. If the contract provides
11 for a contractor to furnish joint control, the contractor shall not
12 have any financial or other interest in the joint control.
13 Notwithstanding any other law, a licensee shall be licensed in this
14 state in an active status for not less than two years prior to
15 submitting an Application for Approval of Blanket Performance
16 and Payment Bond as provided in Section 858.2 of Title 16 of the
17 California Code of Regulations as it read on January 1, 2016.

18 (b) A violation of paragraph (1), (3), or (5) of subdivision (a)
19 by a licensee or a person subject to be licensed under this chapter,
20 or by ~~his or her~~ *their* agent or salesperson, is a misdemeanor
21 punishable by a fine of not less than one hundred dollars (\$100)
22 nor more than five thousand dollars (\$5,000), or by imprisonment
23 in a county jail not exceeding one year, or by both that fine and
24 imprisonment.

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

32 (2) An indictment or information against a person who is
33 licensed under this chapter shall be brought, or a criminal complaint
34 filed, for a violation of this section, in accordance with paragraph
35 (2) of subdivision (d) of Section 802 of the Penal Code, within
36 two years from the date of the contract or, if the contract is not
37 reduced to writing, from the date the buyer makes the first payment
38 to the contractor.

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

1 (c) Any person who violates this section as part of a plan or
2 scheme to defraud an owner or tenant of a residential or
3 nonresidential structure, including a mobilehome or manufactured
4 home, in connection with the offer or performance of repairs to
5 the structure for damage caused by a natural disaster, shall be
6 ordered by the court to make full restitution to the victim based
7 on the person's ability to pay, as defined in ~~subdivision (e) of~~
8 ~~Section 1203.1b of the Penal Code~~: *paragraph (2) of subdivision*
9 *(b) of Section 27755 of the Government Code*. In addition to full
10 restitution, and imprisonment authorized by this section, the court
11 may impose a fine of not less than five hundred dollars (\$500) nor
12 more than twenty-five thousand dollars (\$25,000), based upon the
13 defendant's ability to pay. This subdivision applies to natural
14 disasters for which a state of emergency is proclaimed by the
15 Governor pursuant to Section 8625 of the Government Code, or
16 for which an emergency or major disaster is declared by the
17 President of the United States.

18 *SEC. 5. Section 7159.14 of the Business and Professions Code*
19 *is amended to read:*

20 7159.14. (a) This section applies to a service and repair
21 contract as defined in Section 7159.10. A violation of this section
22 by a licensee or a person subject to be licensed under this chapter,
23 or by ~~his or her~~ *their* agent or salesperson, is cause for discipline.

24 (1) The contract ~~may~~ *shall* not exceed seven hundred fifty dollars
25 (\$750).

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

30 (3) The contract amount shall include the entire cost of the
31 contract including profit, labor, and materials, but excluding
32 finance charges.

33 (4) The actual contract amount of a time and materials contract
34 may not exceed the estimated contract amount without written
35 authorization from the buyer.

36 (5) The prospective buyer ~~must~~ *shall* have initiated contact with
37 the contractor to request work.

38 (6) The contractor ~~may~~ *shall* not sell the buyer goods or services
39 beyond those reasonably necessary to take care of the particular
40 problem that caused the buyer to contact the contractor.

1 (7) ~~No payment may~~ *Payment shall not* be due before the project
2 is completed.

3 (8) A service and repair contractor ~~may~~ *shall* charge only one
4 service charge. For purposes of this chapter, a service charge
5 includes ~~such~~ *charges such* as a service or trip charge, or an
6 inspection fee.

7 (9) A service and repair contractor charging a service charge
8 ~~must~~ *shall* disclose in all advertisements that there is a service
9 charge and, when the customer initiates the call for service, ~~must~~
10 *shall* disclose the amount of the service charge.

11 (10) The service and repair contractor ~~must~~ *shall* offer to the
12 customer any parts that were replaced.

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

18 (b) A violation of paragraph (1), (2), (3), (4), (5), (6), or (8) of
19 subdivision (a) by a licensee or a person subject to be licensed
20 under this chapter, or by ~~his or her~~ *their* agent or salesperson, is a
21 misdemeanor punishable by a fine of not less than one hundred
22 dollars (\$100) nor more than five thousand dollars (\$5,000), or by
23 imprisonment in a county jail not exceeding one year, or by both
24 that fine and imprisonment.

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

32 (2) An indictment or information against a person who is
33 licensed under this chapter shall be brought, or a criminal complaint
34 filed, for a violation of this section, in accordance with paragraph
35 (2) of subdivision (d) of Section 802 of the Penal Code, within
36 two years from the date of the contract or, if the contract is not
37 reduced to writing, from the date the buyer makes the first payment
38 to the contractor.

1 (3) The limitations on actions in this subdivision ~~shall~~ *do* not
2 apply to any administrative action filed against a licensed
3 contractor.

4 (c) Any person who violates this section as part of a plan or
5 scheme to defraud an owner or tenant of a residential or
6 nonresidential structure, including a mobilehome or manufactured
7 home, in connection with the offer or performance of repairs to
8 the structure for damage caused by a natural disaster, shall be
9 ordered by the court to make full restitution to the victim based
10 on the person’s ability to pay, as defined in ~~subdivision (e) of~~
11 ~~Section 1203.1b of the Penal Code.~~ *paragraph (2) of subdivision*
12 *(b) of Section 27755 of the Government Code.* In addition to full
13 restitution, and imprisonment authorized by this section, the court
14 may impose a fine of not less than five hundred dollars (\$500) nor
15 more than twenty-five thousand dollars (\$25,000), based upon the
16 defendant’s ability to pay. This subdivision applies to natural
17 disasters for which a state of emergency is proclaimed by the
18 Governor pursuant to Section 8625 of the Government Code, or
19 for which an emergency or major disaster is declared by the
20 President of the United States.

21 *SEC. 6. Section 7161 of the Business and Professions Code is*
22 *amended to read:*

23 7161. It is a misdemeanor for any person to engage in any of
24 the following acts, the commission of which ~~shall be~~ *is* cause for
25 disciplinary action against any licensee or applicant:

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

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

34 (c) Any fraud in the execution of, or in the material alteration
35 of, any contract, trust deed, mortgage, promissory note, or other
36 document incident to a home improvement transaction or other
37 transaction involving a work of improvement.

38 (d) Preparing or accepting any trust deed, mortgage, promissory
39 note, or other evidence of indebtedness upon the obligations of a
40 home improvement transaction or other transaction for a work of

1 improvement with knowledge that it specifies a greater monetary
2 obligation than the consideration for the improvement work, which
3 consideration may be a time sale price.

4 (e) Directly or indirectly publishing any advertisement relating
5 to home improvements or other works of improvement that
6 contains an assertion, representation, or statement of fact that is
7 false, deceptive, or misleading, or by any means advertising or
8 purporting to offer to the general public this improvement work
9 with the intent not to accept contracts for the particular work or at
10 the price that is advertised or offered to the public, except that any
11 advertisement that is subject to and complies with the existing
12 rules, regulations, or guides of the Federal Trade Commission shall
13 not be deemed false, deceptive, or misleading.

14 (f) Any person who violates subdivision (b), (c), (d), or (e) as
15 part of a plan or scheme to defraud an owner of a residential or
16 nonresidential structure, including a mobilehome or manufactured
17 home, in connection with the offer or performance of repairs to
18 the structure for damage caused by a natural disaster, shall be
19 ordered by the court to make full restitution to the victim based
20 on the person's ability to pay, as defined in ~~subdivision (e) of~~
21 ~~Section 1203.1b of the Penal Code: paragraph (2) of subdivision~~
22 ~~(b) of Section 27755 of the Government Code.~~ In addition to full
23 restitution and imprisonment as authorized by this section, the
24 court may impose a fine of not less than five hundred dollars (\$500)
25 nor more than twenty-five thousand dollars (\$25,000), based upon
26 the defendant's ability to pay. This subdivision applies to natural
27 disasters for which a state of emergency is proclaimed by the
28 Governor pursuant to Section 8625 of the Government Code or
29 for which an emergency or major disaster is declared by the
30 President of the United States.

31 *SEC. 7. Section 9807 of the Business and Professions Code is*
32 *amended to read:*

33 9807. (a) Notwithstanding any other law, a service dealer
34 licensed under this chapter and authorized to engage in the
35 electronic repair industry, as defined in subdivision (p) of Section
36 9801, may install, calibrate, service, maintain, and monitor certified
37 ignition interlock devices.

38 ~~(b) (1) The director may issue a citation to, or suspend, revoke,~~
39 ~~or place on probation the registration of, a service dealer who~~
40 ~~installs, calibrates, services, maintains, or monitors ignition~~

1 ~~interlock devices if the service dealer is not in compliance with~~
2 ~~subdivision (k) of Section 23575.3 of the Vehicle Code.~~

3 ~~(2) A service dealer shall provide to an individual receiving~~
4 ~~ignition interlock device services the information provided in~~
5 ~~subdivision (k) of Section 23575.3 of the Vehicle Code along with~~
6 ~~the contact telephone number of the bureau.~~

7 (e)

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

11 *SEC. 8. Section 9848 of the Business and Professions Code is*
12 *amended to read:*

13 9848. All proceedings to contest a citation for a violation of
14 ~~subdivision (k) of Section 23575.3 of the Vehicle Code~~ or to deny
15 registration or suspend, revoke, or place on probation a registration
16 shall be conducted pursuant to Chapter 5 (commencing with
17 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
18 Code.

19 *SEC. 9. Section 9882.14 of the Business and Professions Code*
20 *is amended to read:*

21 9882.14. (a) The bureau shall cooperate with the Office of
22 Traffic Safety and adopt standards for the installation, maintenance,
23 and servicing of certified ignition interlock devices by automotive
24 repair dealers.

25 (b) The manufacturers of certified ignition interlock devices
26 shall comply with standards established by the bureau for the
27 installation of those ignition interlock devices.

28 (c) The bureau may charge manufacturers of certified interlock
29 ignition devices a fee to recover the *reasonable* cost of monitoring
30 installation standards.

31 ~~(d) (1) The director may issue a citation to, or suspend or revoke~~
32 ~~the registration of, an automotive repair dealer who installs,~~
33 ~~maintains, and services ignition interlock devices if the automotive~~
34 ~~repair dealer is not in compliance with subdivision (k) of Section~~
35 ~~23575.3 of the Vehicle Code.~~

36 ~~(2) An automotive repair dealer shall provide to an individual~~
37 ~~receiving ignition interlock device services the information~~
38 ~~provided in subdivision (k) of Section 23575.3 of the Vehicle Code~~
39 ~~along with the contact telephone number of the bureau.~~

1 *SEC. 10. Section 6111 is added to the Government Code,*
2 *immediately following 6110, to read:*

3 *6111. On and after January 1, 2020, the unpaid balance of*
4 *any court-imposed costs pursuant to Section 6157, 27712,*
5 *subdivision (c) or (f) of Section 29550, Sections 29550.1, 29550.2*
6 *and 29550.3, subdivision (b) of Section 68635, and Section 71386,*
7 *as those sections read on December 31, 2019, is unenforceable*
8 *and uncollectible and any portion of a judgment imposing those*
9 *costs shall be vacated. The unpaid balance of any court imposed*
10 *cost relating to a criminal proceeding pursuant to Section 6157*
11 *is also unenforceable and uncollectible and any portion of a*
12 *judgment imposing those costs shall be vacated.*

13 *SEC. 11. Section 6157 of the Government Code is amended to*
14 *read:*

15 6157. (a) The state, and each city, whether general law or
16 chartered, county, and district, each subdivision, department, board,
17 commission, body, or agency of the foregoing, shall accept personal
18 checks, in addition to any other authorized form of payment, drawn
19 in its favor or in favor of a designated official thereof, in payment
20 for any license, permit, or fee, or in payment of any obligation
21 owing to the public agency or trust deposit, if the person issuing
22 the check furnishes to the person authorized to receive payment
23 satisfactory proof of residence in this state and if the personal
24 check is drawn on a banking institution located in this state.

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

37 (c) The acceptance of a personal check, corporate check,
38 cashier's check, money order, or other draft method pursuant to
39 this section constitutes payment of the obligation owed to the payee

1 public agency to the extent of the amount of the check as of the
2 date of acceptance when, but not before, the check is duly paid.

3 (d) The provisions in subdivision (b) prohibiting a returned
4 check charge being added to, and becoming a part of, an obligation
5 which constitutes a lien on real property do not apply to obligations
6 under the Veterans' Farm and Home Purchase Act of 1974 (Article
7 3.1 (commencing with Section 987.50) of Chapter 6 of Division
8 4 of the Military and Veterans Code).

9 *SEC. 12. Section 27706 of the Government Code is amended*
10 *to read:*

11 27706. The public defender shall perform the following duties:

12 (a) Upon request of the defendant or upon order of the court,
13 the public defender shall defend, without expense to the defendant,
14 ~~except as provided by Section 987.8 of the Penal Code,~~ any person
15 who is not financially able to employ counsel and who is charged
16 with the commission of any contempt or offense triable in the
17 superior courts at all stages of the proceedings, including the
18 preliminary examination. The public defender shall, upon request,
19 give counsel and advice to such person about any charge against
20 the person upon which the public defender is conducting the
21 defense, and shall prosecute all appeals to a higher court or courts
22 of any person who has been convicted, where, in the opinion of
23 the public defender, the appeal will or might reasonably be
24 expected to result in the reversal or modification of the judgment
25 of conviction.

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

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

36 (d) Upon request, or upon order of the court, the public defender
37 shall represent any person who is not financially able to employ
38 counsel in proceedings under Division 4 (commencing with Section
39 1400) of the Probate Code and Part 1 (commencing with Section
40 5000) of Division 5 of the Welfare and Institutions Code.

1 (e) Upon order of the court, the public defender shall represent
 2 any person who is entitled to be represented by counsel but is not
 3 financially able to employ counsel in proceedings under Chapter
 4 2 (commencing with Section 500) of Part 1 of Division 2 of the
 5 Welfare and Institutions Code.

6 (f) Upon order of the court the public defender shall represent
 7 any person who is required to have counsel pursuant to Section
 8 686.1 of the Penal Code.

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

15 *SEC. 13. Section 27707 of the Government Code is amended*
 16 *to read:*

17 27707. The court in which the proceeding is pending may make
 18 the final determination in each case as to whether a defendant or
 19 person described in Section 27706 is financially able to employ
 20 counsel and qualifies for the services of the public defender. The
 21 public defender shall, however, render legal services as provided
 22 in subdivisions (a), (b) and (c) of Section 27706 for any person
 23 the public defender determines is not financially able to employ
 24 counsel until such time as a contrary determination is made by the
 25 court. If a contrary determination is made, the public defender
 26 thereafter may not render services for such person except in a
 27 proceeding to review the determination of that issue or in an
 28 unrelated proceeding. In order to assist the court or public defender
 29 in making the determination, the court or the public defender may
 30 require a defendant or person requesting services of the public
 31 defender to file a financial statement under penalty of perjury. The
 32 financial statement shall be confidential and privileged and shall
 33 not be admissible as evidence in any criminal proceeding except
 34 the prosecution of an alleged offense of perjury based upon false
 35 material contained in the financial statement. The financial
 36 statement shall be made available to the prosecution only for
 37 purposes of investigation of an alleged offense of perjury based
 38 upon false material contained in the financial statement at the
 39 conclusion of the proceedings for which such financial statement
 40 was required to be submitted. ~~The financial statement shall not be~~

1 confidential and privileged in a proceeding under Section 987.8
2 of the Penal Code.

3 *SEC. 14. Section 27712 of the Government Code is repealed.*

4 ~~27712. (a) In any case in which a party is provided legal~~
5 ~~assistance, either through the public defender or private counsel~~
6 ~~appointed by the court, upon conclusion of the proceedings, or~~
7 ~~upon the withdrawal of the public defender or private counsel,~~
8 ~~after a hearing on the matter, the court may make a determination~~
9 ~~of the ability of the party to pay all or a portion of the cost of such~~
10 ~~legal assistance. Such determination of ability to pay shall only be~~
11 ~~made after a hearing conducted according to the provisions of~~
12 ~~Section 987.8 of the Penal Code; except that, in any court where~~
13 ~~a county financial evaluation officer is available, the court shall~~
14 ~~order the party to appear before the county financial evaluation~~
15 ~~officer, who shall make an inquiry into the party's ability to pay~~
16 ~~this cost as well as other court-related costs. The party shall have~~
17 ~~the right to dispute the county financial evaluation officer's~~
18 ~~evaluation, in which case he or she shall be entitled to a hearing~~
19 ~~pursuant to Section 27752. If the party agrees with the county~~
20 ~~financial evaluation officer's evaluation, the county financial~~
21 ~~evaluation officer shall petition the court for an order to that effect.~~
22 ~~The court may, in its discretion, hold one such additional hearing,~~
23 ~~or the county financial evaluation officer may hold one such~~
24 ~~additional evaluation, within six months of the conclusion of the~~
25 ~~criminal proceedings. If the court determines, or upon petition by~~
26 ~~the county financial evaluation officer is satisfied, that the party~~
27 ~~has the ability to pay all or part of the cost, it shall order the party~~
28 ~~to pay the sum to the county in any installments and manner which~~
29 ~~it believes reasonable and compatible with the party's ability to~~
30 ~~pay. Execution may be issued on the order in the same manner as~~
31 ~~on a judgment in a civil action. The order shall not be enforced by~~
32 ~~contempt.~~

33 ~~The court, or in a county which has a county financial evaluation~~
34 ~~officer, the board of supervisors, shall adjudge a standard by which~~
35 ~~to measure the cost of legal assistance provided, which standard~~
36 ~~shall reflect the actual cost of legal services provided. Appointed~~
37 ~~counsel shall provide evidence of the services performed pursuant~~
38 ~~to such standard.~~

39 *SEC. 15. Section 27750 of the Government Code is amended*
40 *to read:*

1 27750. The board of supervisors of any county may designate
 2 a county officer to make financial evaluations of defendants and
 3 other persons liable for reimbursable costs under the law. A county
 4 officer so designated shall be known as the county financial
 5 evaluation officer, whose duties shall be to determine, according
 6 to the standards set by the board of supervisors and at the direction
 7 of the court, the financial ability of parties who have incurred, or
 8 will incur, ~~attorney’s fees or other court-related or court-ordered~~
 9 costs, which costs by law must be waived or the services provided
 10 free of charge if the party is indigent.

11 *SEC. 16. Section 27752 of the Government Code is amended*
 12 *to read:*

13 27752. A county financial evaluation officer is authorized to
 14 make financial evaluations and collect moneys pursuant to Section
 15 3112 of the ~~Family Code; Sections 987.4, 987.8, 1203, 1203.1,~~
 16 ~~1203.1b, 1203.1c, 1203.1e, 1205, and 1209 of the Penal Code;~~
 17 *Family Code, Sections 1203.1 and 1205 of the Penal Code,* and
 18 Sections 353, ~~353.5,~~ 376, 700, 727, 751, 903, 903.1, 903.2, ~~903.3,~~
 19 and 903.45 of the Welfare and Institutions Code.

20 *SEC. 17. Section 27753 of the Government Code is repealed.*

21 ~~27753. In any court where a financial evaluation officer is~~
 22 ~~available, prior to the furnishing of counsel or legal assistance by~~
 23 ~~the court, the court shall give notice to the defendant that the court,~~
 24 ~~after a hearing pursuant to Section 27755 of the Government Code,~~
 25 ~~shall make a determination of the ability of the defendant to pay~~
 26 ~~all or a portion of the cost of counsel. The court shall give the~~
 27 ~~defendant notice of his or her procedural rights under Section~~
 28 ~~27755 of the Government Code. The court shall also give notice~~
 29 ~~that, if the court determines that the defendant has the financial~~
 30 ~~ability, the court shall order him or her to pay all or a part of such~~
 31 ~~cost in a manner which the court believes reasonable and~~
 32 ~~compatible with the defendant’s financial ability. The notice shall~~
 33 ~~inform the defendant that the order shall have the same force and~~
 34 ~~effect as a judgment in a civil action and shall be subject to~~
 35 ~~enforcement against the property of the defendant in the same~~
 36 ~~manner as any other money judgment. The notice shall also inform~~
 37 ~~the defendant that if he or she is ordered to appear before the county~~
 38 ~~financial evaluation officer and fails to so appear, an order for the~~
 39 ~~full cost of the legal assistance provided shall be entered against~~
 40 ~~him or her. The provisions of this section shall apply to all~~

1 proceedings, including contempt proceedings, in which the party
2 is represented by a public defender or appointed counsel.

3 *SEC. 18. Section 27756 of the Government Code is amended*
4 *to read:*

5 27756. Notwithstanding Section 903.4 of the Welfare and
6 Institutions Code, in any county where the board of supervisors
7 has designated a county financial evaluation officer, the county
8 financial evaluation officer shall make financial evaluations of
9 parental liability for reimbursements and other court-ordered costs
10 pursuant to Sections 903, 903.1, 903.2, ~~903.3~~, and 903.45 of the
11 Welfare and Institutions Code, as directed by the board of
12 supervisors, or as established by order of the juvenile court, and
13 may enforce the court order as any other civil judgment, including
14 any balance remaining unpaid after jurisdiction of the minor has
15 terminated.

16 *SEC. 19. Section 27757 of the Government Code is amended*
17 *to read:*

18 27757. (a) Except as otherwise ordered by the juvenile court,
19 a county financial evaluation officer, upon satisfactory proof, may
20 reduce, cancel, or remit the costs and charges listed in Sections
21 903, 903.1, 903.2, ~~903.3~~, and 903.45 of the Welfare and Institutions
22 Code, or established by order of the juvenile court.

23 (b) The county financial evaluation officer may, following entry
24 of an order by the juvenile court that a minor person be represented
25 by the public defender or private attorney or be placed or detained
26 in, or committed to, a county institution or other place, make an
27 investigation to determine the moneys, the property, or interest in
28 property, if any, the minor person has, and whether ~~he or she~~ *the*
29 *minor* has a duly appointed and acting guardian to protect ~~his or~~
30 ~~her~~ *the minor's* property interests. The county financial evaluation
31 officer may also make an investigation to determine whether the
32 minor person has any relative or relatives responsible under the
33 provisions of this chapter, and may ascertain the financial condition
34 of that relative or those relatives to determine whether they are
35 financially able to pay those charges.

36 (c) In any case where a county has expended money for the
37 support and maintenance of any dependent child or other minor
38 person, or has furnished support and maintenance, and the court
39 has not made an order of reimbursement to the county, in whole
40 or in part, as provided by law, or the court has made and

1 subsequently revoked that order, if the dependent child or other
2 minor person or parent, guardian, or other person liable for the
3 support of the dependent child or other minor person acquires
4 property, money, or estate subsequent to the date the juvenile court
5 assumed jurisdiction over the dependent child or minor person, or
6 subsequent to the date the order of reimbursement was revoked,
7 the county shall have a claim for that reimbursement against the
8 dependent child or other minor person or parent, guardian or other
9 person responsible for the support and maintenance. The claim
10 shall be enforced by the county financial evaluation officer or the
11 local child support agency, as the case may be.

12 (d) (1) This section does not apply to a minor who is adjudged
13 a ward of the juvenile court, who is placed on probation pursuant
14 to Section 725 of the Welfare and Institutions Code, who is the
15 subject of a petition that has been filed to adjudge the minor a ward
16 of the juvenile court, or who is the subject of a program of
17 supervision undertaken pursuant to Section 654 of the Welfare
18 and Institutions Code.

19 (2) Notwithstanding paragraph (1), this section applies to a
20 minor who is designated as a dual status child pursuant to Section
21 241.1 of the Welfare and Institutions Code, for purposes of the
22 dependency jurisdiction only and not for purposes of the
23 delinquency jurisdiction.

24 *SEC. 20. Section 29550 of the Government Code is amended*
25 *to read:*

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

1 including applicable overhead costs as permitted by federal Circular
2 A-87 standards, as defined in subdivision ~~(d)~~; (c), incurred in
3 booking or otherwise processing arrested persons. A county may
4 submit an invoice to a city, special district, school district,
5 community college district, college, or university for these expenses
6 incurred by the county on and after July 1, 1990. Counties shall
7 fully disclose the costs allocated as federal Circular A-87 overhead.

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

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

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

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

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

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

38 (4) Notwithstanding subdivision (a), no fees shall be charged
39 to a city, special district, school district, community college district,
40 college, or university on parole violation arrests or

1 probation-ordered returns to custody, unless a new charge has been
2 filed for a crime committed in the jurisdiction of the arresting city,
3 district, college, or university.

4 (5) An agency making a mutual aid request shall pay fees in
5 accordance with subdivision (a) that result from arrests made in
6 response to the mutual aid request except that in the event the
7 Governor declares a state of emergency, no agency shall be charged
8 fees for any arrest made during any riot, disturbance, or event that
9 is subject to the declaration.

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

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

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

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

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

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

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

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

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

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

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

- 1 (3) Warrant service, processing, and detainer.
- 2 (4) Inventory of an arrestee’s money and creation of cash
- 3 accounts.
- 4 (5) Inventory and storage of an arrestee’s property.
- 5 (6) Inventory, laundry, and storage of an arrestee’s clothing.
- 6 (7) The classification of an arrestee.
- 7 (8) The direct costs of automated services utilized in paragraphs
- 8 (1) to (7), inclusive.
- 9 (9) Unit management and supervision of the detention function
- 10 as related to paragraphs (1) to (8), inclusive.

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

27 *SEC. 21. Section 29550.1 of the Government Code is repealed.*
 28 ~~29550.1. Any city, special district, school district, community~~
 29 ~~college district, college, university, or other local arresting agency~~
 30 ~~whose officer or agent arrests a person is entitled to recover any~~
 31 ~~criminal justice administration fee imposed by a county from the~~
 32 ~~arrested person if the person is convicted of any criminal offense~~
 33 ~~related to the arrest. A judgment of conviction shall contain an~~
 34 ~~order for payment of the amount of the criminal justice~~
 35 ~~administration fee by the convicted person, and execution shall be~~
 36 ~~issued on the order in the same manner as a judgment in a civil~~
 37 ~~action, but the order shall not be enforceable by contempt. The~~
 38 ~~court shall, as a condition of probation, order the convicted person~~
 39 ~~to reimburse the city, special district, school district, community~~

1 college district, college, university, or other local arresting agency
2 for the criminal justice administration fee.

3 *SEC. 22. Section 29550.2 of the Government Code is repealed.*

4 ~~29550.2. (a) Any person booked into a county jail pursuant to~~
5 ~~any arrest by any governmental entity not specified in Section~~
6 ~~29550 or 29550.1 is subject to a criminal justice administration~~
7 ~~fee for administration costs incurred in conjunction with the~~
8 ~~arresting and booking if the person is convicted of any criminal~~
9 ~~offense relating to the arrest and booking. The fee which the county~~
10 ~~is entitled to recover pursuant to this subdivision shall not exceed~~
11 ~~the actual administrative costs, as defined in subdivision (c),~~
12 ~~including applicable overhead costs as permitted by federal Circular~~
13 ~~A 87 standards, incurred in booking or otherwise processing~~
14 ~~arrested persons. If the person has the ability to pay, a judgment~~
15 ~~of conviction shall contain an order for payment of the amount of~~
16 ~~the criminal justice administration fee by the convicted person,~~
17 ~~and execution shall be issued on the order in the same manner as~~
18 ~~a judgment in a civil action, but the order shall not be enforceable~~
19 ~~by contempt. The court shall, as a condition of probation, order~~
20 ~~the convicted person to reimburse the county for the criminal~~
21 ~~justice administration fee.~~

22 ~~(b) All fees collected by a county as provided in this section~~
23 ~~and Section 29550, may be deposited into a special fund in that~~
24 ~~county which shall be used exclusively for the operation,~~
25 ~~maintenance, and construction of county jail facilities.~~

26 ~~(c) As used in this section, “actual administrative costs” include~~
27 ~~only those costs for functions that are performed in order to receive~~
28 ~~an arrestee into a county detention facility. Operating expenses of~~
29 ~~the county jail facility including capital costs and those costs~~
30 ~~involved in the housing, feeding, and care of inmates shall not be~~
31 ~~included in calculating “actual administrative costs.” “Actual~~
32 ~~administrative costs” may include any one or more of the following~~
33 ~~as related to receiving an arrestee into the county detention facility:~~

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

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

40 ~~(3) Warrant service, processing, and detainer.~~

- 1 ~~(4) Inventory of an arrestee’s money and creation of cash~~
- 2 ~~accounts.~~
- 3 ~~(5) Inventory and storage of an arrestee’s property.~~
- 4 ~~(6) Inventory, laundry, and storage of an arrestee’s clothing.~~
- 5 ~~(7) The classification of an arrestee.~~
- 6 ~~(8) The direct costs of automated services utilized in paragraphs~~
- 7 ~~(1) to (7), inclusive.~~
- 8 ~~(9) Unit management and supervision of the detention function~~
- 9 ~~as related to paragraphs (1) to (8), inclusive.~~
- 10 ~~(d) It is the Legislature’s intent in providing the definition of~~
- 11 ~~“actual administrative costs” for purposes of this section that this~~
- 12 ~~definition be used in determining the fees for the governmental~~
- 13 ~~entities referenced in subdivision (a) only. In interpreting the~~
- 14 ~~phrases “actual administrative costs,” “criminal justice~~
- 15 ~~administration fee,” “booking,” or “otherwise processing” in~~
- 16 ~~Section 29550 or 29550.1, it is the further intent of the Legislature~~
- 17 ~~that the courts shall not look to this section for guidance on what~~
- 18 ~~the Legislature may have intended when it enacted those sections.~~
- 19 ~~SEC. 23. Section 29550.3 of the Government Code is repealed.~~
- 20 ~~29550.3. (a) A city which books or processes persons to a jail~~
- 21 ~~administered by it and which does not otherwise incur an~~
- 22 ~~administrative fee from the county, may establish and collect an~~
- 23 ~~administrative fee for an arrested person pursuant to the same~~
- 24 ~~standards and procedures set forth in Section 29550.1.~~
- 25 ~~(b) Any city whose officer or agent arrests a person is entitled~~
- 26 ~~to recover from the arrested person a criminal justice administration~~
- 27 ~~fee for administrative costs it incurs in conjunction with the arrest~~
- 28 ~~if the person is convicted of any criminal offense related to the~~
- 29 ~~arrest, whether or not it is the offense for which the person was~~
- 30 ~~originally booked.~~
- 31 ~~(c) Any booking fee imposed pursuant to this section shall be~~
- 32 ~~charged to the person booked and not to the arresting entity.~~
- 33 ~~(d) Nothing in this section shall be construed to limit the ability~~
- 34 ~~of any city to enter into agreements with other local arresting~~
- 35 ~~agencies authorizing the imposition of a criminal justice~~
- 36 ~~administration fee by that city upon those local arresting agencies~~
- 37 ~~for reimbursement of expenses incurred with respect to the booking~~
- 38 ~~or other processing of persons into a jail facility operated by that~~
- 39 ~~city.~~

1 *SEC. 24. Section 29551 of the Government Code is amended*
2 *to read:*

3 29551. (a) The board of supervisors or city council of any
4 county, city and county, or city that opts to receive funds pursuant
5 to Section 29552 shall establish a local detention facility revenue
6 account, on behalf of the sheriff or the official responsible for local
7 detention facilities in the county, city and county, or city, into
8 which shall be deposited funds paid by the Controller, pursuant to
9 Section 29552. The funds in the local detention facility revenue
10 account shall be used exclusively for the purpose of operation,
11 renovation, remodeling, or constructing local detention facilities
12 and related equipment.

13 (b) (1) If an appropriation for the purposes specified in Section
14 29552 is made in any fiscal year, a county, city and county, or city,
15 may charge a jail access fee to a local agency that exceeds the
16 agency's three-year average number of nonfelony bookings for
17 crimes listed in paragraph (2) at a rate not to exceed the actual cost
18 of booking an arrested person into the local detention facility, for
19 each booking in excess of the three-year average. A local agency's
20 three-year average number of nonfelony bookings for crimes listed
21 in paragraph (2) shall be recalculated each year. The jail access
22 fee shall be calculated and paid on a monthly basis, and all revenue
23 derived from the jail access fee shall be deposited into the local
24 detention facility revenue account created pursuant to subdivision
25 (a).

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

28 (A) Municipal code violations.

29 (B) Misdemeanor violations, except driving under the influence
30 offenses and domestic violence misdemeanor offenses, including
31 enforcement of protective orders.

32 (c) Cities that operate Type One facilities within a county shall
33 be eligible to receive funds from the county's local detention
34 facility revenue account. Cities that operate Type One facilities
35 and charged booking fees pursuant to Section 29550.3 during the
36 2006–07 fiscal year shall receive funds in an amount proportional
37 to the number of persons booked into the city's Type One facility
38 for which the city charged fees to the arresting agency.

39 (d) ~~Except as provided in subdivisions (e) to (f), inclusive, of~~
40 ~~Section 29550 and subdivisions (a) to (c), inclusive, of Section~~

1 ~~29550.3, every~~ Every year in which at least *the sum of* thirty-five
 2 million dollars (\$35,000,000) is appropriated for the purposes of
 3 Section 29552, counties, cities and counties, and cities are
 4 prohibited from collecting fees pursuant to ~~Sections 29550 and~~
 5 ~~29550.3~~ Section 29550 from other public entities. In any fiscal
 6 year in which the appropriation for the purposes of Section 29552
 7 is less than thirty-five million dollars (\$35,000,000), a county, city
 8 and county, or a city may collect fees pursuant to Section 29550
 9 ~~and Section 29550.3~~ up to a rate, adjusted as provided in
 10 subdivision (e), in proportion to the amount that the amount
 11 appropriated is less than thirty-five million dollars (\$35,000,000).

12 (e) The maximum rate of the fee charged by each local agency
 13 pursuant to subdivision (d) shall be the rate charged as of June 30,
 14 2006, pursuant to Section ~~29550 or 29550.3~~, 29550, increased for
 15 each subsequent fiscal year by the California Consumer Price Index
 16 as reported by the Department of Finance plus 1 percent,
 17 compounded annually.

18 ~~(f) This section shall become operative on July 1, 2007.~~

19 SEC. 25. Section 50050 of the Government Code is amended
 20 to read:

21 50050. For purposes of this article, “local agency” includes all
 22 districts. Except as otherwise provided by law, money, excluding
 23 restitution to victims, that is not the property of a local agency that
 24 remains unclaimed in its treasury or in the official custody of its
 25 officers for three years is the property of the local agency after
 26 notice if not claimed or if no verified complaint is filed and served.
 27 At any time after the expiration of the three-year period, the
 28 treasurer of the local agency may cause a notice to be published
 29 once a week for two successive weeks in a newspaper of general
 30 circulation published in the local agency. At the expiration of the
 31 three-year period, money representing restitution collected on
 32 behalf of victims shall be deposited into the Restitution Fund or
 33 used by the local agency for purposes of victim services. If a local
 34 agency elects to use the money for purposes of victim services,
 35 the local agency shall first document that it has made a reasonable
 36 effort to locate and notify the victim to whom the restitution is
 37 owed. ~~The local agency may utilize fees collected pursuant to~~
 38 ~~subdivision (l) of Section 1203.1 or subdivision (f) of Section~~
 39 ~~2085.5 of the Penal Code to offset the reasonable cost of locating~~
 40 ~~and notifying the victim to whom restitution is owed. With respect~~

1 to moneys deposited with the county treasurer pursuant to Section
2 7663 of the Probate Code, this three-year period to claim money
3 held by a local agency is extended for an infant or person of
4 unsound mind until one year from the date ~~his or her~~ *their* disability
5 ceases.

6 For purposes of this section, “infant” and “person of unsound
7 mind” have the same meaning as given to those terms as used in
8 Section 1441 of the Code of Civil Procedure.

9 *SEC. 26. Section 68085 of the Government Code is amended*
10 *to read:*

11 68085. (a) (1) There is hereby established the Trial Court
12 Trust Fund, the proceeds of which shall be apportioned for the
13 purposes authorized in this section, including apportionment to
14 the trial courts to fund trial court operations, as defined in Section
15 77003.

16 (2) The apportionment payments shall be made by the
17 Controller. The final payment from the Trial Court Trust Fund for
18 each fiscal year shall be made on or before August 31 of the
19 subsequent fiscal year.

20 (A) Notwithstanding any other provision of law, in order to
21 promote statewide efficiency, the Judicial Council may authorize
22 the direct payment or reimbursement or both of actual costs from
23 the Trial Court Trust Fund or the State Trial Court Improvement
24 and Modernization Fund to fund the costs of operating one or more
25 trial courts upon the authorization of the participating courts. These
26 paid or reimbursed costs may be for services provided to the court
27 or courts by the Administrative Office of the Courts or payment
28 for services or property of any kind contracted for by the court or
29 courts or on behalf of the courts by the Administrative Office of
30 the Courts. The amount of appropriations from the State Trial
31 Court Improvement and Modernization Fund under this subdivision
32 may not exceed 20 percent of the amount deposited in the State
33 Trial Court Improvement and Modernization Fund pursuant to
34 subdivision (a) of Section 77205. The direct payment or
35 reimbursement of costs from the Trial Court Trust Fund may be
36 supported by the reduction of a participating court’s allocation
37 from the Trial Court Trust Fund to the extent that the court’s
38 expenditures for the program are reduced and the court is supported
39 by the expenditure. The Judicial Council shall provide the affected
40 trial courts with quarterly reports on expenditures from the Trial

1 Court Trust Fund incurred as authorized by this subdivision. The
2 Judicial Council shall establish procedures to provide for the
3 administration of this paragraph in a way that promotes the
4 effective, efficient, reliable, and accountable operation of the trial
5 courts.

6 (B) As used in subparagraph (A), the term “costs of operating
7 one or more trial courts” includes any expenses related to operation
8 of the court or performance of its functions, including, but not
9 limited to, statewide administrative and information technology
10 infrastructure supporting the courts. The term “costs of operating
11 one or more trial courts” is not restricted to items considered “court
12 operations” pursuant to Section 77003, but is subject to policies,
13 procedures, and criteria established by the Judicial Council, and
14 may not include an item that is a cost that must otherwise be paid
15 by the county or city and county in which the court is located.

16 (b) Notwithstanding any other provision of law, the fees listed
17 in subdivision (c) shall all be deposited upon collection in a special
18 account in the county treasury, and transmitted monthly to the
19 State Treasury for deposit in the Trial Court Trust Fund.

20 (c) (1) Except as specified in subdivision (d), this section applies
21 to all fees collected on or before December 31, 2005, pursuant to
22 Sections 631.3, 116.230, and 403.060 of the Code of Civil
23 Procedure and Sections 26820.4, 26823, 26826, 26826.01, 26827,
24 26827.4, 26830, 26832.1, 26833.1, 26835.1, 26836.1, 26837.1,
25 26838, 26850.1, 26851.1, 26852.1, 26853.1, 26855.4, 26862,
26 68086, 72055, 72056, 72056.01, and 72060.

27 (2) Notwithstanding any other provision of law, except as
28 specified in subdivision (d) of this section and subdivision (a) of
29 Section 68085.7, this section applies to all fees and fines collected
30 on or before December 31, 2005, pursuant to Sections 116.390,
31 116.570, 116.760, 116.860, 177.5, 491.150, 704.750, 708.160,
32 724.100, 1134, 1161.2, and 1218 of the Code of Civil Procedure,
33 Sections 26824, 26828, 26829, 26834, and 72059 of the
34 Government Code, and subdivisions (b) and (c) of Section 166
35 ~~and Section 1214.1~~ of the Penal Code.

36 (3) If any of the fees provided for in this subdivision are partially
37 waived by court order, and the fee is to be divided between the
38 Trial Court Trust Fund and any other fund, the amount of the partial
39 waiver shall be deducted from the amount to be distributed to each

1 fund in the same proportion as the amount of each distribution
2 bears to the total amount of the fee.

3 (d) This section does not apply to that portion of a filing fee
4 collected pursuant to Section 26820.4, 26826, 26827, 72055, or
5 72056 that is allocated for dispute resolution pursuant to Section
6 470.3 of the Business and Professions Code, the county law library
7 pursuant to Section 6320 of the Business and Professions Code,
8 the Judges' Retirement Fund pursuant to Section 26822.3,
9 automated recordkeeping or conversion to micrographics pursuant
10 to Sections 26863 and 68090.7, and courthouse financing pursuant
11 to Section 76238. This section also does not apply to fees collected
12 pursuant to subdivisions (a) and (c) of Section 27361.

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

16 (f) Notwithstanding any other provision of law, ~~no~~ an agency
17 ~~may take action to~~ shall not change the amounts allocated to any
18 of the funds described in subdivision (a), (b), (c), or (d).

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

23 (h) Any amounts required to be transmitted by a county or city
24 and county to the state pursuant to this section shall be remitted
25 to the State Treasury no later than 45 days after the end of the
26 month in which the fees were collected. This remittance shall be
27 accompanied by a remittance advice identifying the collection
28 month and the appropriate account in the Trial Court Trust Fund
29 to which it is to be deposited. Any remittance that is not made by
30 the county or city and county in accordance with this section shall
31 be considered delinquent, and subject to the interest and penalties
32 specified in this section.

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

35 (1) Calculate interest on the delinquent payment by multiplying
36 the amount of the delinquent payment at a daily rate equivalent to
37 the rate of return of money deposited in the Local Agency
38 Investment Fund pursuant to Section 16429.1 from the date the
39 payment was originally due to either 30 days after the date of the
40 issuance by the Controller of the final audit report concerning the

1 failure to pay or the date of payment by the entity responsible for
2 the delinquent payment, whichever comes first.

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

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

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

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

22 (4) The party responsible for the error or other action that caused
23 the failure to pay may include, but is not limited to, the party that
24 collected the funds who is not the party responsible for remitting
25 the funds to the Trial Court Trust Fund, if the collecting party
26 failed or delayed in providing the remitting party with sufficient
27 information needed by the remitting party to distribute the funds.

28 (k) The Trial Court Trust Fund shall be invested in the Surplus
29 Money Investment Fund and all interest earned shall be allocated
30 to the Trial Court Trust Fund quarterly and shall be allocated
31 among the courts in accordance with the requirements of
32 subdivision (a).

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

36 (m) Except for subdivisions (a) and (k), this section does not
37 apply to fees and fines that are listed in subdivision (a) of Section
38 68085.1 that are collected on or after January 1, 2006.

39 (n) The changes made to subdivisions (i) and (j) of this section
40 by the act adding this subdivision shall apply to all delinquent

1 payments for which no final audit has been issued by the Controller
2 prior to January 1, 2008.

3 (o) The Judicial Council shall not expend any of these funds on
4 the system known as the Court Case Management System without
5 consent from the Legislature, *System*, except for the maintenance
6 and operation of Court Case Management System Version 2 and
7 Version 3.

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

13 ~~(q) This section shall become operative on January 1, 2013.~~

14 *SEC. 27. Section 68085.1 of the Government Code is amended*
15 *to read:*

16 68085.1. (a) This section applies to all fees and fines that are
17 collected on or after January 1, 2006, under all of the following:

18 (1) Sections 177.5, 209, 403.060, 491.150, 631.3, 683.150,
19 704.750, 708.160, 724.100, 1134, 1161.2, 1218, and 1993.2 of,
20 subdivision (g) of Section 411.20 and subdivisions (c) and (g) of
21 Section 411.21 of, subdivision (b) of Section 631 of, and Chapter
22 5.5 (commencing with Section 116.110) of Title 1 of Part 1 of, the
23 Code of Civil Procedure.

24 (2) Section 3112 of the Family Code.

25 (3) Section 31622 of the Food and Agricultural Code.

26 (4) Subdivision (d) of Section 6103.5, Sections 68086 and
27 68086.1, subdivision (d) of Section 68511.3, Sections 68926.1 and
28 69953.5, and Chapter 5.8 (commencing with Section 70600).

29 (5) Section 103470 of the Health and Safety Code.

30 (6) Subdivisions (b) and (c) of Section 166 ~~and Section 1214.1~~
31 of the Penal Code.

32 (7) Sections 1835, 1851.5, 2343, 7660, and 13201 of the Probate
33 Code.

34 (8) Sections 14607.6 and 16373 of the Vehicle Code.

35 (9) Section 71386 of this code, Sections 304, 7851.5, and 9002
36 of the Family Code, and Section 1513.1 of the Probate Code, if
37 the reimbursement is for expenses incurred by the court.

38 (10) Section 3153 of the Family Code, if the amount is paid to
39 the court for the cost of counsel appointed by the court to represent
40 a child.

1 (b) ~~On and after January 1, 2006, each~~ *Each* superior court shall
2 deposit all fees and fines listed in subdivision (a), as soon as
3 practicable after collection and on a regular basis, into a bank
4 account established for this purpose by the Administrative Office
5 of the Courts. Upon direction of the Administrative Office of the
6 Courts, the county shall deposit civil assessments ~~under Section~~
7 ~~1214.1 of the Penal Code and any other money~~ it collects under
8 the sections listed in subdivision (a) as soon as practicable after
9 collection and on a regular basis into the bank account established
10 for this purpose and specified by the Administrative Office of the
11 Courts. The deposits shall be made as required by rules adopted
12 by, and financial policies and procedures authorized by, the Judicial
13 Council under subdivision (a) of Section 77206. Within 15 days
14 after the end of the month in which the fees and fines are collected,
15 each court, and each county that collects any fines or fees under
16 subdivision (a), shall provide the Administrative Office of the
17 Courts with a report of the fees by categories as specified by the
18 Administrative Office of the Courts. The Administrative Office
19 of the Courts and any court may agree upon a time period greater
20 than 15 days, but in no case more than 30 days after the end of the
21 month in which the fees and fines are collected. The fees and fines
22 listed in subdivision (a) shall be distributed as provided in this
23 section.

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

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

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

32 (C) To the county law library funds, as described in Sections
33 116.230 and 116.760 of the Code of Civil Procedure, subdivision
34 (b) of Section 68085.3, subdivision (b) of Section 68085.4, and
35 Section 70621 of this code, and Section 14607.6 of the Vehicle
36 Code.

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

1 (E) ~~Commencing July 1, 2011, to~~ To the Trial Court Trust Fund,
2 as described in subdivision (e) of Section 70626, to be used by the
3 Judicial Council to implement and administer the civil
4 representation pilot program under Section 68651.

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

8 (d) Within 45 calendar days after the end of the month in which
9 the fees and fines listed in subdivision (a) are collected, the
10 amounts remaining after the distributions in subdivision (c) shall
11 be transmitted to the State Treasury for deposit in the Trial Court
12 Trust Fund and other funds as required by law. This remittance
13 shall be accompanied by a remittance advice identifying the
14 collection month and the appropriate account in the Trial Court
15 Trust Fund or other fund to which it is to be deposited. Upon the
16 receipt of any delinquent payment required under this subdivision,
17 the Controller shall calculate a penalty as provided under
18 subdivision (i).

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

21 (1) Into the State Court Facilities Construction Fund, the Judges’
22 Retirement Fund, and the Equal Access Fund, as described in
23 subdivision (c) of Section 68085.3 and subdivision (c) of Section
24 68085.4.

25 (2) Into the Health Statistics Special Fund, as described in
26 subdivision (b) of Section 70670 of this code and Section 103730
27 of the Health and Safety Code.

28 (3) Into the Family Law Trust Fund, as described in Section
29 70674.

30 (4) Into the Immediate and Critical Needs Account of the State
31 Court Facilities Construction Fund, established in Section 70371.5,
32 as described in Sections 68085.3, 68085.4, and 70657.5, and
33 subdivision (e) of Section 70617.

34 (5) The remainder of the money shall be deposited into the Trial
35 Court Trust Fund.

36 (f) The amounts collected by each superior court under Section
37 116.232, subdivision (g) of Section 411.20, and subdivision (g) of
38 Section 411.21 of the Code of Civil Procedure, Sections 304, 3112,
39 3153, 7851.5, and 9002 of the Family Code, subdivision (d) of
40 Section 6103.5, subdivision (d) of Section 68511.3 and Sections

1 68926.1, 69953.5, 70627, 70631, 70640, 70661, 70678, and 71386
2 of this code, and Sections 1513.1, 1835, 1851.5, and 2343 of the
3 Probate Code shall be added to the monthly apportionment for that
4 court under subdivision (a) of Section 68085.

5 (g) If any of the fees provided in subdivision (a) are partially
6 waived by court order or otherwise reduced, and the fee is to be
7 divided between the Trial Court Trust Fund and any other fund or
8 account, the amount of the reduction shall be deducted from the
9 amount to be distributed to each fund in the same proportion as
10 the amount of each distribution bears to the total amount of the
11 fee. If the fee is paid by installment payments, the amount
12 distributed to each fund or account from each installment shall
13 bear the same proportion to the installment payment as the full
14 distribution to that fund or account does to the full fee. If a court
15 collects a fee that was incurred before January 1, 2006, under a
16 provision that was the predecessor to one of the paragraphs
17 contained in subdivision (a), the fee may be deposited as if it were
18 collected under the paragraph of subdivision (a) that corresponds
19 to the predecessor of that paragraph and distributed in prorated
20 amounts to each fund or account to which the fee in subdivision
21 (a) must be distributed.

22 (h) Except as provided in Sections 470.5 and 6322.1 of the
23 Business and Professions Code, and Sections 70622, 70624, and
24 70625 of this code, an agency shall not take action to change the
25 amounts allocated to any of the funds described in subdivision (c),
26 (d), or (e).

27 (i) The amount of the penalty on any delinquent payment under
28 subdivision (c) or (d) shall be calculated by multiplying the amount
29 of the delinquent payment at a daily rate equivalent to 1 ½ percent
30 per month for the number of days the payment is delinquent. The
31 penalty shall be paid from the Trial Court Trust Fund. Penalties
32 on delinquent payments under subdivision (d) shall be calculated
33 only on the amounts to be distributed to the Trial Court Trust Fund
34 and the State Court Facilities Construction Fund, and each penalty
35 shall be distributed proportionately to the funds to which the
36 delinquent payment was to be distributed.

37 (j) If a delinquent payment under subdivision (c) or (d) results
38 from a delinquency by a superior court under subdivision (b), the
39 court shall reimburse the Trial Court Trust Fund for the amount
40 of the penalty. Notwithstanding Section 77009, any penalty on a

1 delinquent payment that a court is required to reimburse pursuant
2 to this section shall be paid from the court operations fund for that
3 court. The penalty shall be paid by the court to the Trial Court
4 Trust Fund no later than 45 days after the end of the month in
5 which the penalty was calculated. If the penalty is not paid within
6 the specified time, the Administrative Office of the Courts may
7 reduce the amount of a subsequent monthly allocation to the court
8 by the amount of the penalty on the delinquent payment.

9 (k) If a delinquent payment under subdivision (c) or (d) results
10 from a delinquency by a county in transmitting fees and fines listed
11 in subdivision (a) to the bank account established for this purpose,
12 as described in subdivision (b), the county shall reimburse the Trial
13 Court Trust Fund for the amount of the penalty. The penalty shall
14 be paid by the county to the Trial Court Trust Fund no later than
15 45 days after the end of the month in which the penalty was
16 calculated.

17 *SEC. 28. Section 68085.5 of the Government Code is amended*
18 *to read:*

19 68085.5. (a) Notwithstanding any other provision of law,
20 except subdivision (h) and Section 68085.6, the fees and fines
21 collected pursuant to Sections 116.390, 116.570, 116.760, 116.860,
22 491.150, 704.750, 708.160, 724.100, 1134, and 1161.2 of the Code
23 of Civil Procedure, Sections 26824, 26828, 26829, 26834, and
24 72059 of the Government Code, and Section 1835 of the Probate
25 Code, that are not part of a local revenue sharing agreement or
26 practice shall be deposited in a special account in the county
27 treasury and transmitted therefrom monthly to the Controller for
28 deposit in the Trial Court Trust Fund.

29 (b) Notwithstanding any other provision of law, except
30 subdivision (h) and Section 68085.6, the fees and fines collected
31 pursuant to Sections 26827.6, 26827.7, 26840.1, 26847, 26854,
32 26855.1, 26855.2, 26859, 27293, 71386, and 72061 of the
33 Government Code, Section 103470 of the Health and Safety Code,
34 Sections 1203.4 and 1203.45 of the Penal Code, Sections 2343,
35 7660, and 13201 of the Probate Code, and Section 14607.6 of the
36 Vehicle Code, that are not subject to a local revenue sharing
37 agreement or practice, shall be deposited in a special account in
38 the county treasury.

39 (c) ~~However, if~~ *If* a superior court incurs the cost or provides
40 the services specified in subdivision (b), the fees and fines collected

1 shall be transmitted from the special account in the county treasury
2 monthly to the Controller for deposit in the Trial Court Trust Fund.

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

7 (2) In order to ensure that expenditures from revenue sharing
8 agreements are consistent with Judicial Council fiscal and
9 budgetary policy, the Administrative Director of the Courts shall
10 review and approve all distribution of revenue agreements that are
11 negotiated after the effective date of this section. If approval of an
12 agreement negotiated after the effective date of this section is not
13 granted, the director shall advise the court and county of the reasons
14 for not granting approval and suggest modifications that will make
15 the agreement consistent with the Judicial Council fiscal and
16 budgetary policies.

17 (e) The Administrative Office of the Courts and the California
18 State Association of Counties shall jointly determine and administer
19 on or after January 1, 2004, and on or after January 1, 2005, all of
20 the following:

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

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

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

29 (4) Any payment to correct for an overpayment or underpayment
30 made for the 2003–04 fiscal year, shall be paid to the appropriate
31 party on or before September 15, 2004. Any payment to correct
32 for an overpayment or underpayment made for the 2004–05 fiscal
33 year, shall be paid to the appropriate party on or before November
34 15, 2005.

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

38 (6) Counties that have not paid amounts billed under this section
39 for the 2003-04 or 2004-05 fiscal year shall pay the amounts still
40 owing to the Trial Court Trust Fund on or before September 1,

1 2005. If payment is not received on or before September 1, 2005,
2 it shall be considered delinquent and subject to the penalties set
3 forth in Section 68085.

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

8 (f) Each superior court and each county shall provide detailed
9 quarterly reports of the revenues generated by the fees and fines
10 specified in subdivisions (a) and (b), Sections 177.5 and 1218 of
11 the Code of Civil Procedure, and ~~Sections 166 and 1214.1~~ *Section*
12 *166* of the Penal Code. The reports shall include the total amount
13 collected and retained by the court or county and the existing
14 distribution of those fees.

15 (g) No other transfers of the fees and fines specified in
16 subdivisions (a) and (b), Sections 177.5 and 1218 of the Code of
17 Civil Procedure, and ~~Sections 166 and 1214.1~~ *Section 166* of the
18 Penal Code shall take effect prior to July 1, 2005.

19 (h) This section does not apply to fees and fines specified in
20 subdivisions (a), (b), and (f) that are collected on or after July 1,
21 2005.

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

25 *SEC. 29. Section 68085.7 of the Government Code is amended*
26 *to read:*

27 68085.7. (a) (1) Notwithstanding any other provision of law,
28 Section 68085.5 does not apply to the following fees and fines
29 collected on or after July 1, 2005: any fees and fines specified in
30 subdivision (a) or (b) of Section 68085.5, Section 177.5 or 1218
31 of the Code of Civil Procedure, or Section 166 ~~or 1214.1~~ of the
32 Penal Code. Commencing July 1, 2005, these fees and fines shall
33 be distributed as provided by Section 68085, except that the fees
34 listed in subdivision (b) of Section 68085.5 and the fee in Section
35 1835 of the Probate Code shall be distributed to the court or the
36 county, whichever provided the services for which the fee is
37 charged or incurred the costs reimbursed by the fee.

38 (2) Notwithstanding any other provision of law, until January
39 1, 2006, upon direction of the Administrative Office of the Courts,
40 the court and the county shall deposit the money each collects

1 under the sections listed in paragraph (2) of subdivision (c) of
2 Section 68085 as soon as practicable after collection and on a
3 regular basis into a bank account established for this purpose and
4 specified by the Administrative Office of the Courts. The deposits
5 shall be made as required by rules adopted by and financial policies
6 and procedures authorized by the Judicial Council under
7 subdivision (a) of Section 77206 of the Government Code. Within
8 15 days after the end of the month in which the money is collected,
9 the court and the county each shall provide the Administrative
10 Office of the Courts with a report of the money it collects, as
11 specified by the Administrative Office of the Courts. The money
12 shall be transmitted to the State Controller for deposit in the Trial
13 Court Trust Fund by the Administrative Office of the Courts.

14 (3) Commencing January 1, 2006, the fees and fines listed in
15 Section 68085.5 shall be distributed as provided by Section
16 68085.1, or if no provision is made in Section 68085.1, as specified
17 in the section that provides for the fee or fine. The fees in Sections
18 26840.1, 26847, 26854, 26855.1, 26855.2, and 27293 shall be
19 distributed to the county.

20 ~~(b) Commencing July 1, 2005, in each fiscal year, the amount~~
21 ~~of each county's annual remittance to the state Trial Court Trust~~
22 ~~Fund under paragraph (2) of subdivision (b) of Section 77201.1~~
23 ~~shall be reduced by the amount that the county received from civil~~
24 ~~assessments under Section 1214.1 of the Penal Code, after~~
25 ~~deducting the cost of collecting those civil assessments as defined~~
26 ~~in subdivision (f), in the 2003-04 fiscal year. The reduction~~
27 ~~provided by this subdivision for the 2005-06 fiscal year shall apply~~
28 ~~only to a county that transmits to the Trial Court Trust Fund any~~
29 ~~money received by the county between July 1, 2005, and the~~
30 ~~effective date of this section that would have been transmitted to~~
31 ~~the Trial Court Trust Fund pursuant to subdivision (a), and the~~
32 ~~amendments to Section 68085 of this code and Section 1214.1 of~~
33 ~~the Penal Code, if this section had been effective on July 1, 2005.~~

34 (e)

35 (b) The amount of the reduction under this section for each
36 county shall be determined by agreement between the
37 Administrative Office of the Courts (AOC) and the California
38 State Association of Counties (CSAC). Each county and each
39 superior court shall exchange relevant factual information to
40 determine and jointly report to the AOC and the CSAC the total

1 amount the county received from civil assessments for the 2003-04
2 fiscal year, both gross and net after costs, on or before August 31,
3 2005. If the court and the county do not agree on the amount, the
4 court and the county shall each report the amount each believes is
5 correct to the AOC and the CSAC on or before August 31, 2005.

6 ~~(d)~~

7 (c) The AOC and the CSAC shall agree on the amount of the
8 reduction for each county under this section on or before October
9 31, 2005. If a court or county disagrees with the amount agreed to
10 by the AOC and the CSAC for that county, the court or county
11 may appeal to the AOC and the CSAC for an adjustment. The
12 AOC and the CSAC shall determine whether to make any requested
13 adjustment.

14 ~~(e)~~

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

19 ~~(f) Guidelines of the Controller shall apply to the determination
20 of revenues from civil assessments under Section 1214.1 of the
21 Penal Code.~~

22 (e) The costs of collecting civil assessments applied in
23 determining net civil assessments are only those costs used to
24 collect those civil assessments.

25 *SEC. 30. Section 68085.8 of the Government Code is amended*
26 *to read:*

27 68085.8. (a) On or before December 31, 2005, the
28 Administrative Office of the Courts (AOC) and the California
29 State Association of Counties (CSAC) shall complete an initial
30 review of the impact upon individual counties and courts of the
31 changes in revenue distributions and payment obligations under
32 Sections 68085.6, and 68085.7 for the purpose of correcting
33 inequities that may result from these changes. The AOC and CSAC
34 shall work with counties and courts to develop and implement
35 procedures to correct inequities resulting from either the
36 implementation of these changes or any changes in the provision
37 of services or benefits under any of the following circumstances:

38 (1) Institution of new civil assessment programs after the
39 2003-04 fiscal year.

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

6 (3) The demonstration by clear evidence that the information
 7 used as the basis for determining a reduction under Section
 8 68085.7, or for determining a county's obligation under Section
 9 68085.6, results in an inequity, and that the inequity imposes an
 10 undue hardship on the court or county.

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

13 ~~(1) Adjustment of the reduction under subdivision (b) of Section~~
 14 ~~68085.7.~~

15 ~~(2)~~

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

18 ~~(3)~~

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

21 ~~(4)~~

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

25 The adjustments under paragraphs (1) to ~~(4)~~; (3), inclusive, may
 26 be temporary or permanent. Adjustments under this section shall
 27 be made only with the mutual agreement of the AOC and CSAC.

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

29 ~~68635. (a) This section applies only to waivers of trial court~~
 30 ~~fees.~~

31 ~~(b) Notwithstanding any other provision of this article, a person~~
 32 ~~who is sentenced to the state prison or confined in a county jail~~
 33 ~~shall pay a partial amount of the trial court filing fees and costs to~~
 34 ~~the extent provided in this section.~~

35 ~~(c) To apply for an initial fee waiver, a person who is sentenced~~
 36 ~~to the state prison or confined in a county jail shall complete, under~~
 37 ~~penalty of perjury, a Judicial Council application form giving the~~
 38 ~~current address of the inmate and a statement that the inmate is~~
 39 ~~incarcerated, together with a statement of account for any moneys~~
 40 ~~due to the inmate for the six-month period immediately preceding~~

1 the application. The form shall be certified by the appropriate
2 official of the Department of Corrections and Rehabilitation or a
3 county jail.

4 (d) ~~When the pleadings or other papers are filed, the court shall~~
5 ~~assess and, if funds exist, collect as partial payment, a partial filing~~
6 ~~fee of 20 percent of the greater of either of the following:~~

7 (1) ~~The average monthly deposits to the inmate's account.~~

8 (2) ~~The average monthly balance in the inmate's account for~~
9 ~~the six-month period immediately preceding the application.~~

10 (e) ~~After the initial filing fee is partially paid, the inmate shall~~
11 ~~make monthly payments of 20 percent of the preceding month's~~
12 ~~income credited to the inmate's account. The Department of~~
13 ~~Corrections and Rehabilitation, or a county jail, shall forward~~
14 ~~payments from this account to the clerk of the court each time the~~
15 ~~amount in the account exceeds ten dollars (\$10) until 20 percent~~
16 ~~of the filing fees are paid.~~

17 (f) ~~The fees collected by the court under this section shall not~~
18 ~~exceed 50 percent of the amount of the fees that would be charged~~
19 ~~to a person who is not incarcerated.~~

20 (g) ~~The court may delegate to a clerk the authority to process~~
21 ~~requests for fee waivers from inmates under this section.~~

22 (h) ~~An inmate shall not be prohibited from filing pleadings or~~
23 ~~other papers solely because the inmate has no assets and no means~~
24 ~~to partially pay the initial filing fee.~~

25 *SEC. 32. Section 68635 is added to the Government Code, to*
26 *read:*

27 *68635. Notwithstanding any other law, a person who is*
28 *sentenced to state prison or confined in a county jail shall not be*
29 *required to pay any trial court filing fees or costs related to the*
30 *person's underlying criminal conviction for which the person is*
31 *incarcerated.*

32 *SEC. 33. Section 71380 of the Government Code is amended*
33 *to read:*

34 71380. The Controller shall establish, supervise, and maintain
35 trial court revenue distribution guidelines, including a program to
36 audit the accuracy of distributions as provided by law, to ensure
37 that all fines, penalties, forfeitures, and fees *and forfeitures* assessed
38 by courts, and their collection and appropriate disbursement, shall
39 be properly accounted for and distributed. The trial court revenue
40 distribution guidelines shall apply to superior courts, counties,

1 including counties' probation departments, central collection
2 bureaus, and any other agencies or entities having a role in this
3 process.

4 *SEC. 34. Section 71386 of the Government Code is amended*
5 *to read:*

6 71386. (a) Each superior court shall adopt a written policy,
7 consistent with rules adopted by, or trial court financial policies
8 and procedures authorized by, the Judicial Council under
9 subdivision (a) of Section 77206, governing the acceptance of
10 checks and money orders in payment of any fees, fines, fines or
11 bail deposits. The policy shall permit clerks to accept checks and
12 money orders under conditions that tend to assure their validity.

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

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

24 ~~(d) If any check offered in payment pursuant to this section is~~
25 ~~returned to the payee without payment, a reasonable charge for~~
26 ~~the returned check not to exceed the actual costs incurred may be~~
27 ~~imposed to recover the processing and collection costs. This charge~~
28 ~~may be added to, and become part of, any underlying obligation~~
29 ~~other than an obligation that constitutes a lien on real property, or~~
30 ~~a different method of payment for that payment and future~~
31 ~~payments by that person may be prescribed. If the costs are incurred~~
32 ~~by the county, the charges imposed for a returned check shall be~~
33 ~~retained by the treasurer of the county and be deposited in the~~
34 ~~county general fund. If the costs are incurred by the court, the~~
35 ~~charges imposed for a returned check shall be distributed to the~~
36 ~~court under Section 68085.1.~~

37 *SEC. 35. Section 76000.10 of the Government Code is amended*
38 *to read:*

39 76000.10. (a) This section shall be known, and may be cited,
40 as the Emergency Medical Air Transportation Act.

1 (b) For purposes of this section:

2 (1) “Department” means the State Department of Health Care
3 Services.

4 (2) “Director” means the Director of Health Care Services.

5 (3) “Provider” means a provider of emergency medical air
6 transportation services.

7 (4) “Rotary wing” means a type of aircraft, commonly referred
8 to as a helicopter, that generates lift through the use of wings,
9 known as rotor blades, that revolve around a mast.

10 (5) “Fixed wing” means a type of aircraft, commonly referred
11 to as an airplane, that generates lift through the use of the forward
12 motion of the aircraft and wings that do not revolve around a mast
13 but are fixed in relation to the fuselage of the aircraft.

14 (6) “Air mileage rate” means the per-mileage reimbursement
15 rate paid for services rendered by rotary-wing and fixed-wing
16 providers.

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

23 (2) The penalty described in this subdivision is in addition to
24 the state penalty assessed pursuant to Section 1464 of the Penal
25 Code. However, this penalty shall not be included in the base fine
26 used to calculate the state penalty assessment pursuant to
27 subdivision (a) of Section 1464 of the Penal Code, the state
28 surcharge levied pursuant to Section 1465.7 of the Penal Code,
29 and the state court construction penalty pursuant to Section 70372
30 of this code, and to calculate the other additional penalties levied
31 pursuant to this chapter.

32 (d) The county or the court that imposed the fine shall, in
33 accordance with the procedures set out in Section 68101, transfer
34 moneys collected pursuant to this section to the Treasurer for
35 deposit into the Emergency Medical Air Transportation and
36 Children’s Coverage Fund, which is hereby established in the State
37 Treasury. Notwithstanding Section 16305.7, the Emergency
38 Medical Air Transportation and Children’s Coverage Fund shall
39 include interest and dividends earned on money in the fund. Any
40 law that references the Emergency Medical Air Transportation

1 Act Fund, as previously established by this subdivision, shall be
2 construed to reference the Emergency Medical Air Transportation
3 and Children’s Coverage Fund, effective January 1, 2018.

4 (e) (1) The Emergency Medical Air Transportation and
5 Children’s Coverage Fund shall be administered by the State
6 Department of Health Care Services. Moneys in the Emergency
7 Medical Air Transportation and Children’s Coverage Fund shall
8 be made available, upon appropriation by the Legislature, to the
9 department for any of the following purposes:

10 (A) For children’s health care coverage.

11 (B) For emergency medical air transportation provider payments,
12 as follows:

13 (i) For payment of the administrative costs of the department
14 in administering emergency medical air transportation provider
15 payments.

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

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

25 (2) If money in the Emergency Medical Air Transportation and
26 Children’s Coverage Fund is made available to the department for
27 the purpose described in subparagraph (B) of paragraph (1), both
28 of the following shall occur:

29 (A) The department shall seek to obtain federal matching funds
30 by using the moneys in the Emergency Medical Air Transportation
31 and Children’s Coverage Fund for the purpose of augmenting
32 Medi-Cal reimbursement paid to emergency medical air
33 transportation providers.

34 (B) The director shall augment emergency medical air
35 transportation provider payments in accordance with a federally
36 approved reimbursement methodology. The director may seek
37 federal approvals or waivers as may be necessary to implement
38 this section and to obtain federal financial participation to the
39 maximum extent possible for the payments under this section.

1 (3) (A) Upon appropriation by the Legislature, the department
2 shall use moneys in the Emergency Medical Air Transportation
3 and Children’s Coverage Fund and any federal matching funds to
4 do any of the following:

- 5 (i) Fund children’s health care coverage.
- 6 (ii) Increase the Medi-Cal reimbursement for emergency medical
7 air transportation services in an amount not to exceed normal and
8 customary charges charged by the providers.

9 (B) Notwithstanding any other law, and pursuant to this section,
10 if money in the Emergency Medical Air Transportation and
11 Children’s Coverage Fund is made available to the department for
12 the purpose described in subparagraph (B) of paragraph (1), the
13 department shall increase the Medi-Cal reimbursement for
14 emergency medical air transportation services if both of the
15 following conditions are met:

16 (i) Moneys in the Emergency Medical Air Transportation and
17 Children’s Coverage Fund will cover the cost of increased
18 payments pursuant to clause (iii) of subparagraph (B) of paragraph
19 (1).

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

23 (f) The assessment of penalties pursuant to this section shall
24 terminate on January 1, 2020. Penalties assessed before January
25 1, 2020, shall ~~continue~~ *cease* to be collected, administered, and
26 distributed ~~pursuant to this section until exhausted or until June~~
27 ~~30, 2021, whichever occurs first. On June 30, 2021, as of that date.~~
28 *On January 1, 2020*, moneys remaining unexpended and
29 unencumbered in the Emergency Medical Air Transportation and
30 Children’s Coverage Fund shall be transferred to the General Fund,
31 to be available, upon appropriation by the Legislature, for the
32 purposes of augmenting Medi-Cal reimbursement for emergency
33 medical air transportation and related costs, generally, or funding
34 children’s health care coverage.

35 (g) Notwithstanding the rulemaking provisions of Chapter 3.5
36 (commencing with Section 11340) of Part 1 of Division 3 of Title
37 2, the department may implement, interpret, or make specific this
38 section and any applicable federal waivers and state plan
39 amendments by means of all-county letters, plan letters, plan or

1 provider bulletins, or similar instructions without taking regulatory
2 action.

3 (h) This section shall remain in effect only until January 1, ~~2022,~~
4 ~~2021,~~ and as of that date is repealed, unless a later enacted statute,
5 that is enacted before January 1, ~~2022,~~ ~~2021,~~ deletes or extends
6 that date.

7 *SEC. 36. Section 76223 of the Government Code is amended*
8 *to read:*

9 76223. Notwithstanding any other provision of law, the
10 following conditions pertain to the construction of court facilities
11 in Merced County by the County of Merced for any construction
12 pursuant to a written agreement entered into prior to January 1,
13 2004, between the board of supervisors and the presiding judge of
14 the superior court:

15 ~~(a) Revenue received in Merced County from civil assessments~~
16 ~~for Failure to Appear, pursuant to Section 1214.1 of the Penal~~
17 ~~Code, shall be available, in an annual amount not to exceed the~~
18 ~~amount agreed upon by the board of supervisors and the presiding~~
19 ~~judge of the superior court, for the purpose of augmenting other~~
20 ~~funds made available for construction.~~

21 ~~(b)~~

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

26 ~~(e)~~

27 (b) The total amounts deposited under subdivision (a) may not
28 exceed in any fiscal year the amount payable on the construction
29 costs less (1) any amounts paid by the courthouse construction
30 fund and (2) any other amounts paid from other sources except for
31 any amounts paid pursuant to subdivision (b).

32 ~~(d)~~

33 (c) The total amounts deposited under subdivision (b) shall not
34 exceed in any fiscal year the amount payable on the construction
35 costs less (1) any amounts paid by the courthouse construction
36 fund, (2) any amounts paid pursuant to subdivision (a) of this
37 section, and (3) any other amounts paid from other sources except
38 for any amounts paid pursuant to subdivision (b).

39 ~~(e)~~

1 (d) If legislation is passed and becomes effective transferring
2 the responsibility for court facilities to the state, and the legislation
3 permits the transfer of the bonded indebtedness or other
4 encumbrance on court facilities together with revenue sources for
5 payment of the bonded indebtedness or other encumbrance, the
6 revenue sources provided for by this section may also be transferred
7 to the state.

8 (f)

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

12 *SEC. 37. Section 77009 of the Government Code is amended*
13 *to read:*

14 77009. (a) The Judicial Council may establish bank accounts
15 for the superior courts and require the courts to deposit moneys
16 for trial court operations, and any other moneys under the control
17 of the courts, into those accounts. Deposits to these accounts shall
18 include, but are not limited to, the following:

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

21 (2) Moneys held in trust.

22 (3) Other moneys as deemed necessary or appropriate.

23 (b) Subdivision (a) shall not apply to payments from a party or
24 a defendant received by the superior court for any criminal ~~fees,~~
25 ~~fees, fines~~ or forfeitures. However, the court and county may enter
26 into a contract for the court to provide depository services in an
27 account established by the Judicial Council for criminal ~~fees, fines,~~
28 ~~fines~~ and forfeitures, with the approval of the Administrative
29 Director of the Courts. The contract shall identify the scope of
30 service, method of service delivery, term of agreement, anticipated
31 service outcomes, and the cost of the service. The amount of any
32 indirect or overhead costs shall be individually stated with the
33 method of calculation of the indirect or overhead costs.

34 (c) Moneys deposited into a bank account established pursuant
35 to subdivision (a) for the Trial Court Operations Fund that are
36 appropriated in the Budget Act and allocated or reallocated to the
37 superior court by the Judicial Council shall be payable only for
38 the purposes set forth in Sections 77003 and 77006.5, and for
39 services purchased by the court pursuant to subdivisions (b) and
40 (c) of Section 77212.

1 (d) (1) All moneys received by a superior court from any source
2 for court operating and program purposes shall be deposited into
3 a bank account established pursuant to subdivision (a) and
4 accounted for in the Trial Court Operations Fund. Moneys that are
5 received to fulfill the requirements of Article 4 (commencing with
6 Section 4250) of Chapter 2 of Part 2 of Division 9 and Division
7 14 (commencing with Section 10000) of the Family Code shall be
8 identified and maintained in a separate account established in the
9 fund for this purpose.

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

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

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

20 (B) Payments from a party or a defendant received by the county
21 for any ~~fees, fines, fines~~ or forfeitures; moneys collected by the
22 superior court under Chapter 5.8 (commencing with Section
23 70600); or ~~fees and fines~~ to which Section 68085.1 applies.

24 (e) The presiding judge of the superior court, or ~~his or her~~ *the*
25 *judge's* designee, shall authorize and direct all expenditures by the
26 court for operating and program purposes from any account
27 established under subdivision (b) or (c).

28 (f) The Judicial Council, in consultation with the Controller's
29 office, shall establish procedures to implement this section and to
30 provide for payment of trial court operations expenses, as described
31 in Sections 77003 and 77006.5, incurred on July 1, 1997, and
32 thereafter.

33 (g) (1) If the Judicial Council has not established bank accounts
34 pursuant to subdivision (a), the court shall contract with the county
35 for fiscal services. Each board of supervisors shall maintain in the
36 county treasury a Trial Court Operations Fund, which will operate
37 as an agency fund. All moneys appropriated in the Budget Act and
38 allocated and reallocated to the superior court in the county by the
39 Judicial Council shall be deposited into the fund.

1 (2) Moneys deposited into the fund that are appropriated for the
2 Trial Court Operations Fund in the Budget Act and allocated or
3 reallocated to the superior court by the Judicial Council shall be
4 payable only for the purposes set forth in Sections 77003 and
5 77006.5, and for services purchased by the court pursuant to
6 subdivisions (b) and (c) of Section 77212. The presiding judge of
7 the superior court, or ~~his or her~~ *the judge's* designee, shall authorize
8 and direct expenditures from the fund and the county
9 auditor-controller shall make payments from the funds as directed.
10 Approval of the board of supervisors is not required for expenditure
11 from this fund.

12 (3) All moneys received by a superior court from any source
13 for court operating and program purposes shall be deposited in the
14 fund, except as provided in this subdivision. Moneys that are
15 received to fulfill the requirements of Article 4 (commencing with
16 Section 4250) of Chapter 2 of Part 2 of Division 9 and Division
17 14 (commencing with Section 10000) of the Family Code shall be
18 identified and maintained in a separate account established in the
19 fund for this purpose. All other moneys that are received for
20 purposes other than court operations, as defined in Section 77003
21 and Rule 10.810 of the California Rules of Court, shall be identified
22 and maintained in one or more separate accounts established in
23 the fund pursuant to procedures adopted by the Judicial Council.
24 This subdivision shall only apply to moneys received by the courts
25 for operating and program purposes. This subdivision shall not
26 apply to either of the following:

27 (A) Moneys received by the courts pursuant to Section 68084,
28 if those funds are not for court operating or program purposes.

29 (B) Payments from a party or a defendant received by the county
30 for any ~~fees, fines, fines~~, *fines* or forfeitures; moneys collected by the
31 superior court under Chapter 5.8 (commencing with Section
32 70600); or ~~fees and~~ fines to which Section 68085.1 applies.

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

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

1 (6) Reasonable administrative expenses incurred by the county
2 associated with the operation of this fund shall be charged to the
3 superior court.

4 (7) A county, or city and county, may bill the superior court
5 within its jurisdiction for costs for services provided by the county,
6 or city and county, as described in Sections 77003 and 77212,
7 including indirect costs as described in paragraph (7) of subdivision
8 (a) of Section 77003 and Section 77212. The costs billed by the
9 county, or the city and the county, pursuant to this subdivision
10 shall not exceed the costs incurred by the county, or the city and
11 the county, of providing similar services to county departments or
12 special districts.

13 (8) Pursuant to Section 77206, the Controller, at the request of
14 the Legislature, may perform financial and fiscal compliance audits
15 of this fund. The Judicial Council or its representatives may
16 perform audits, reviews, and investigations of this fund wherever
17 the records may be located.

18 (h) The Judicial Council or its representatives may perform
19 audits, reviews, and investigations of superior court operations
20 and records wherever they may be located.

21 *SEC. 38. Section 77203 of the Government Code is amended*
22 *to read:*

23 77203. (a) Prior to June 30, 2014, a trial court may carry over
24 all unexpended funds from the courts operating budget from the
25 prior fiscal year.

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

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

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

36 (3) Subdivision (f) of Section 13963, Sections 26731, 66006,
37 68090.8, 70640, 70678, and 76223, subdivision (b) of Section
38 77207.5, and subdivision (h) of Section 77209.

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

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

6 (6) ~~Sections 11205.2 and 40508.6~~ Section 11205.2 of the Vehicle
7 Code.

8 *SEC. 39. Section 77205 of the Government Code is amended*
9 *to read:*

10 77205. (a) Notwithstanding any other provision of law, in any
11 year in which a county collects fee, fine, and forfeiture revenue
12 for deposit into the county general fund pursuant to Sections
13 1463.001 and 1464 of the Penal Code, Sections ~~42007, 42007.1,~~
14 ~~42007~~ and 42008 of the Vehicle Code, and Sections 27361 and
15 ~~76000~~ ~~of, and subdivision (f) of Section 29550 of, of~~ the
16 Government Code that would have been deposited into the General
17 Fund pursuant to these sections as they read on December 31,
18 1997, ~~and pursuant to Section 1463.07 of the Penal Code,~~ and that
19 exceeds the amount specified in paragraph (2) of subdivision (b)
20 of Section 77201 for the 1997–98 fiscal year, and paragraph (2)
21 of subdivision (b) of Section 77201.1 for the 1998–99 fiscal year,
22 and thereafter, the excess amount shall be divided between the
23 county or city and county and the state, with 50 percent of the
24 excess transferred to the state for deposit in the State Trial Court
25 Improvement and Modernization Fund and 50 percent of the excess
26 deposited into the county general fund. The Judicial Council shall
27 allocate 80 percent of the amount deposited in the State Trial Court
28 Improvement and Modernization Fund pursuant to this subdivision
29 each fiscal year that exceeds the amount deposited in the 2002–03
30 fiscal year among:

31 (1) The trial court in the county from which the revenue was
32 deposited.

33 (2) Other trial courts, as provided in paragraph (1) of subdivision
34 (a) of Section 68085.

35 (3) For retention in the State Trial Court Improvement and
36 Modernization Fund.

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

1 (b) Any amounts required to be distributed to the state pursuant
 2 to subdivision (a) shall be remitted to the Controller no later than
 3 45 days after the end of the fiscal year in which those fees, fines,
 4 and forfeitures were collected. This remittance shall be
 5 accompanied by a remittance advice identifying the quarter of
 6 collection and stating that the amount should be deposited in the
 7 State Trial Court Improvement and Modernization Fund.

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

13	County	Amount
14	Placer	\$ 1,554,677
15	Riverside	11,028,078
16	San Joaquin	3,694,810
17	San Mateo	5,304,995
18	Ventura	4,637,294
19		

20
 21 *SEC. 40. Section 11374.5 of the Health and Safety Code is*
 22 *amended to read:*

23 11374.5. (a) Any manufacturer of a controlled substance who
 24 disposes of any hazardous substance that is a controlled substance
 25 or a chemical used in, or is a byproduct of, the manufacture of a
 26 controlled substance in violation of any law regulating the disposal
 27 of hazardous substances or hazardous waste is guilty of a public
 28 offense punishable by imprisonment pursuant to subdivision (h)
 29 of Section 1170 of the Penal Code for two, three, or four years or
 30 in the county jail not exceeding one year.

31 ~~(b) (1) In addition to any other penalty or liability imposed~~
 32 ~~by law, a person who is convicted of violating subdivision (a), or~~
 33 ~~any person who is convicted of the manufacture, sale, possession~~
 34 ~~for sale, possession, transportation, or disposal of any hazardous~~
 35 ~~substance that is a controlled substance or a chemical used in, or~~
 36 ~~is a byproduct of, the manufacture of a controlled substance in~~
 37 ~~violation of any law, shall pay a penalty equal to the amount of~~
 38 ~~the actual cost incurred by the state or local agency to remove and~~
 39 ~~dispose of the hazardous substance that is a controlled substance~~
 40 ~~or a chemical used in, or is a byproduct of, the manufacture of a~~

1 ~~controlled substance and to take removal action with respect to~~
2 ~~any release of the hazardous substance or any items or materials~~
3 ~~contaminated by that release, if the state or local agency requests~~
4 ~~the prosecuting authority to seek recovery of that cost. The court~~
5 ~~shall transmit all penalties collected pursuant to this subdivision~~
6 ~~to the county treasurer of the county in which the court is located~~
7 ~~for deposit in a special account in the county treasury. The county~~
8 ~~treasurer shall pay that money at least once a month to the agency~~
9 ~~that requested recovery of the cost for the removal action. The~~
10 ~~county may retain up to 5 percent of any assessed penalty for~~
11 ~~appropriate and reasonable administrative costs attributable to the~~
12 ~~collection and disbursement of the penalty.~~

13 ~~(2) If the Department of Toxic Substances Control has requested~~
14 ~~recovery of the cost of removing the hazardous substance that is~~
15 ~~a controlled substance or a chemical used in, or is a byproduct of,~~
16 ~~the manufacture of a controlled substance or taking removal action~~
17 ~~with respect to any release of the hazardous substance, the county~~
18 ~~treasurer shall transfer funds in the amount of the penalty collected~~
19 ~~to the Treasurer, who shall deposit the money in the Illegal Drug~~
20 ~~Lab Cleanup Account, which is hereby created in the General Fund~~
21 ~~in the State Treasury. The Department of Toxic Substances Control~~
22 ~~may expend the money in the Illegal Drug Lab Cleanup Account,~~
23 ~~upon appropriation by the Legislature, to cover the cost of taking~~
24 ~~removal actions pursuant to Section 25354.5.~~

25 ~~(3) If a local agency and the Department of Toxic Substances~~
26 ~~Control have both requested recovery of removal costs with respect~~
27 ~~to a hazardous substance that is a controlled substance or a~~
28 ~~chemical used in, or is a byproduct of, the manufacture of a~~
29 ~~controlled substance, the county treasurer shall apportion any~~
30 ~~penalty collected among the agencies involved in proportion to~~
31 ~~the costs incurred.~~

32 ~~(e)~~

33 ~~(b) As used in this section the following terms have the~~
34 ~~following meaning:~~

35 ~~(1) “Dispose” means to abandon, deposit, intern, or otherwise~~
36 ~~discard as a final action after use has been achieved or a use is no~~
37 ~~longer intended.~~

38 ~~(2) “Hazardous substance” has the same meaning as defined~~
39 ~~in Section 25316.~~

1 (3) “Hazardous waste” has the same meaning as defined in
2 Section 25117.

3 ~~(4) For purposes of this section, “remove” or “removal” has~~
4 ~~the same meaning as set forth in Section 25323.~~

5 *SEC. 41. Section 11470.2 of the Health and Safety Code is*
6 *repealed.*

7 ~~11470.2.— (a) In lieu of a civil action for the recovery of~~
8 ~~expenses as provided in Section 11470.1, the prosecuting attorney~~
9 ~~in a criminal proceeding may, upon conviction of the underlying~~
10 ~~offense, seek the recovery of all expenses recoverable under~~
11 ~~Section 11470.1 from:~~

12 ~~(1) Any person who manufactures or cultivates a controlled~~
13 ~~substance or its precursors in violation of this division.~~

14 ~~(2) Any person who aids and abets or who knowingly profits~~
15 ~~in any manner from the manufacture or cultivation of a controlled~~
16 ~~substance or its precursors on property owned, leased, or possessed~~
17 ~~by the defendant, in violation of this division. The trier of fact shall~~
18 ~~make an award of expenses, if proven, which shall be enforceable~~
19 ~~as any civil judgment. If probation is granted, the court may order~~
20 ~~payment of the expenses as a condition of probation. All expenses~~
21 ~~recovered pursuant to this section shall be remitted to the law~~
22 ~~enforcement agency which incurred them.~~

23 ~~(b) The prosecuting attorney may, in conjunction with the~~
24 ~~criminal proceeding, file a petition for recovery of expenses with~~
25 ~~the superior court of the county in which the defendant has been~~
26 ~~charged with the underlying offense. The petition shall allege that~~
27 ~~the defendant had manufactured or cultivated a controlled substance~~
28 ~~in violation of Division 10 (commencing with Section 11000) of~~
29 ~~the Health and Safety Code and that expenses were incurred in~~
30 ~~seizing, eradicating, or destroying the controlled substance or its~~
31 ~~precursors. The petition shall also state the amount to be assessed.~~
32 ~~The prosecuting attorney shall make service of process of a notice~~
33 ~~of that petition to the defendant.~~

34 ~~(c) The defendant may admit to or deny the petition for recovery~~
35 ~~of expenses. If the defendant admits the allegations of the petition,~~
36 ~~the court shall rule for the prosecuting attorney and enter a~~
37 ~~judgment for recovery of the expenses incurred.~~

38 ~~(d) If the defendant denies the petition or declines to admit to~~
39 ~~it, the petition shall be heard in the superior court in which the~~
40 ~~underlying criminal offense will be tried and shall be promptly~~

1 ~~heard following the defendant's conviction on the underlying~~
2 ~~offense. The hearing shall be held either before the same jury or~~
3 ~~before a new jury in the discretion of the court, unless waived by~~
4 ~~the consent of all parties.~~

5 ~~(e) At the hearing, the burden of proof as to the amount of~~
6 ~~expenses recoverable shall be on the prosecuting attorney and shall~~
7 ~~be by a preponderance of the evidence.~~

8 ~~(f) For the purpose of discharge in bankruptcy, a judgment for~~
9 ~~recovery of expenses under this section shall be deemed to be a~~
10 ~~debt for willful and malicious injury by the defendant to another~~
11 ~~entity or to the property of another entity.~~

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

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

19 *SEC. 43. Section 273a of the Penal Code is amended to read:*

20 273a. (a) Any person who, under circumstances or conditions
21 likely to produce great bodily harm or death, willfully causes or
22 permits any child to suffer, or inflicts thereon unjustifiable physical
23 pain or mental suffering, or having the care or custody of any child,
24 willfully causes or permits the person or health of that child to be
25 injured, or willfully causes or permits that child to be placed in a
26 situation where ~~his or her~~ *the child's* person or health is
27 endangered, shall be punished by imprisonment in a county jail
28 not exceeding one year, or in the state prison for two, four, or six
29 years.

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

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

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

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

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

13 ~~(B) The terms of probation for offenders shall not be lifted until
14 all reasonable fees due to the counseling program have been paid
15 in full, but in no case shall probation be extended beyond the term
16 provided in subdivision (a) of Section 1203.1. If the court finds
17 that the defendant does not have the ability to pay the fees based
18 on the defendant’s changed circumstances, the court may reduce
19 or waive the fees.~~

20 (4) If the offense was committed while the defendant was under
21 the influence of drugs or alcohol, the defendant shall abstain from
22 the use of drugs or alcohol during the period of probation and shall
23 be subject to random drug testing by ~~his or her~~ *the defendant’s*
24 probation officer.

25 (5) The court may waive any of the ~~above~~ minimum conditions
26 of probation *of this subdivision* upon a finding that the condition
27 would not be in the best interests of justice. The court shall state
28 on the record its reasons for any waiver.

29 *SEC. 44. Section 273d of the Penal Code is amended to read:*

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

37 (b) Any person who is found guilty of violating subdivision (a)
38 shall receive a four-year enhancement for a prior conviction of
39 that offense provided that no additional term shall be imposed
40 under this subdivision for any prison term or term imposed under

1 the provisions of subdivision (h) of Section 1170 served prior to
2 a period of 10 years in which the defendant remained free of both
3 the commission of an offense that results in a felony conviction
4 and prison custody or custody in a county jail under the provisions
5 of subdivision (h) of Section 1170.

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

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

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

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

20 ~~(B) The terms of probation for offenders shall not be lifted until~~
21 ~~all reasonable fees due to the counseling program have been paid~~
22 ~~in full, but in no case shall probation be extended beyond the term~~
23 ~~provided in subdivision (a) of Section 1203.1. If the court finds~~
24 ~~that the defendant does not have the ability to pay the fees based~~
25 ~~on the defendant's changed circumstances, the court may reduce~~
26 ~~or waive the fees.~~

27 (4) If the offense was committed while the defendant was under
28 the influence of drugs or alcohol, the defendant shall abstain from
29 the use of drugs or alcohol during the period of probation and shall
30 be subject to random drug testing by ~~his or her~~ *the defendant's*
31 probation officer.

32 (5) The court may waive any of the ~~above~~ minimum conditions
33 of probation *specified in this subdivision* upon a finding that the
34 condition would not be in the best interests of justice. The court
35 shall state on the record its reasons for any waiver.

36 *SEC. 45. Section 273.1 of the Penal Code is amended to read:*

37 273.1. (a) Any treatment program to which a child abuser
38 convicted of a violation of Section 273a or 273d is referred as a
39 condition of probation shall meet the following criteria:

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

4 (2) Staff providing direct service are therapists licensed to
5 practice in this state or are under the direct supervision of a
6 therapist licensed to practice in this state.

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

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

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

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

23 (7) The program may include, on the recommendation of the
24 treatment counselor, family counseling. However, no child victim
25 shall be compelled or required to participate in the program,
26 including family counseling, and no program may condition a
27 defendant's enrollment on participation by the child victim. The
28 treatment counselor shall privately advise the child victim that ~~his~~
29 ~~or her~~ *their* participation is voluntary.

30 (b) If the program finds that the defendant is unsuitable, the
31 program shall immediately contact the probation department or
32 the court. The probation department or court shall either recalendar
33 the case for hearing or refer the defendant to an appropriate
34 alternative child abuser's treatment counseling program.

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

38 (d) The child abuser's treatment counseling program shall
39 provide the probation department and the court with periodic
40 progress reports at least every three months that include attendance,

1 fee payment history, and program compliance. The program shall
2 submit a final evaluation that includes the program's evaluation
3 of the defendant's progress, and recommendation for either
4 successful or unsuccessful termination of the program.

5 ~~(e) The defendant shall pay for the full costs of the treatment
6 program, including any drug testing. However, the court may waive
7 any portion or all of that financial responsibility upon a finding of
8 an inability to pay. Upon the request of the defendant, the court
9 shall hold a hearing to determine the defendant's ability to pay for
10 the treatment program. At the hearing the court may consider all
11 relevant information, but shall consider the impact of the costs of
12 the treatment program on the defendant's ability to provide food,
13 clothing, and shelter for the child injured by a violation of Section
14 273a or 273d. If the court finds that the defendant is unable to pay
15 for any portion of the costs of the treatment program, its reasons
16 for that finding shall be stated on the record. In the event of this
17 finding, the program fees or a portion thereof shall be waived.~~

18 ~~(f) All programs accepting referrals of child abusers pursuant
19 to this section shall accept offenders for whom fees have been
20 partially or fully waived. However, the court shall require each
21 qualifying program to serve no more than its proportionate share
22 of those offenders who have been granted fee waivers, and require
23 all qualifying programs to share equally in the cost of serving those
24 offenders with fee waivers.~~

25 *SEC. 46. Section 273.6 of the Penal Code is amended to read:*

26 273.6. (a) Any intentional and knowing violation of a
27 protective order, as defined in Section 6218 of the Family Code,
28 or of an order issued pursuant to Section 527.6, 527.8, or 527.85
29 of the Code of Civil Procedure, or Section 15657.03 of the Welfare
30 and Institutions Code, is a misdemeanor punishable by a fine of
31 not more than one thousand dollars (\$1,000), or by imprisonment
32 in a county jail for not more than one year, or by both that fine and
33 imprisonment.

34 (b) In the event of a violation of subdivision (a) that results in
35 physical injury, the person shall be punished by a fine of not more
36 than two thousand dollars (\$2,000), or by imprisonment in a county
37 jail for not less than 30 days nor more than one year, or by both
38 that fine and imprisonment. However, if the person is imprisoned
39 in a county jail for at least 48 hours, the court may, in the interest
40 of justice and for reasons stated on the record, reduce or eliminate

1 the 30-day minimum imprisonment required by this subdivision.
2 In determining whether to reduce or eliminate the minimum
3 imprisonment pursuant to this subdivision, the court shall consider
4 the seriousness of the facts before the court, whether there are
5 additional allegations of a violation of the order during the
6 pendency of the case before the court, the probability of future
7 violations, the safety of the victim, and whether the defendant has
8 successfully completed or is making progress with counseling.

9 (c) Subdivisions (a) and (b) shall apply to the following court
10 orders:

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

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

15 (3) An order enjoining a party from specified behavior that the
16 court determined was necessary to effectuate the order described
17 in subdivision (a).

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

21 (d) A subsequent conviction for a violation of an order described
22 in subdivision (a), occurring within seven years of a prior
23 conviction for a violation of an order described in subdivision (a)
24 and involving an act of violence or “a credible threat” of violence,
25 as defined in subdivision (c) of Section 139, is punishable by
26 imprisonment in a county jail not to exceed one year, or pursuant
27 to subdivision (h) of Section 1170.

28 (e) In the event of a subsequent conviction for a violation of an
29 order described in subdivision (a) for an act occurring within one
30 year of a prior conviction for a violation of an order described in
31 subdivision (a) that results in physical injury to a victim, the person
32 shall be punished by a fine of not more than two thousand dollars
33 (\$2,000), or by imprisonment in a county jail for not less than six
34 months nor more than one year, by both that fine and
35 imprisonment, or by imprisonment pursuant to subdivision (h) of
36 Section 1170. However, if the person is imprisoned in a county
37 jail for at least 30 days, the court may, in the interest of justice and
38 for reasons stated in the record, reduce or eliminate the six-month
39 minimum imprisonment required by this subdivision. In
40 determining whether to reduce or eliminate the minimum

1 imprisonment pursuant to this subdivision, the court shall consider
2 the seriousness of the facts before the court, whether there are
3 additional allegations of a violation of the order during the
4 pendency of the case before the court, the probability of future
5 violations, the safety of the victim, and whether the defendant has
6 successfully completed or is making progress with counseling.

7 (f) The prosecuting agency of each county shall have the primary
8 responsibility for the enforcement of orders described in
9 subdivisions (a), (b), (d), and (e).

10 (g) (1) Every person who owns, possesses, purchases, or
11 receives a firearm knowing ~~he or she~~ *the person* is prohibited from
12 doing so by the provisions of a protective order as defined in
13 Section 136.2 of this code, Section 6218 of the Family Code, or
14 Section 527.6, 527.8, or 527.85 of the Code of Civil Procedure,
15 or Section 15657.03 of the Welfare and Institutions Code, shall
16 be punished under Section 29825.

17 (2) Every person subject to a protective order described in
18 paragraph (1) shall not be prosecuted under this section for owning,
19 possessing, purchasing, or receiving a firearm to the extent that
20 firearm is granted an exemption pursuant to subdivision (f) of
21 Section 527.9 of the Code of Civil Procedure, or subdivision (h)
22 of Section 6389 of the Family Code.

23 (h) If probation is granted upon conviction of a violation of
24 subdivision (a), (b), (c), (d), or (e), the court shall impose probation
25 consistent with Section 1203.097, and the conditions of probation
26 may include, in lieu of a ~~fine, one or both of the following~~
27 ~~requirements:~~

28 ~~(1) That the defendant make payments to a battered women's~~
29 ~~shelter or to a shelter for abused elder persons or dependent adults,~~
30 ~~up to a maximum of five thousand dollars (\$5,000), pursuant to~~
31 ~~Section 1203.097.~~

32 ~~(2) That fine, that~~ the defendant reimburse the victim for
33 reasonable costs of counseling and other reasonable expenses that
34 the court finds are the direct result of the defendant's offense.

35 (i) For any order to pay a fine, make payments to a battered
36 women's shelter, or pay restitution as a condition of probation
37 under subdivision (e), the court shall make a determination of the
38 defendant's ability to pay. In no event shall any order to make
39 payments to a battered women's shelter be made if it would impair
40 the ability of the defendant to pay direct restitution to the victim

1 or court-ordered child support. Where the injury to a married person
2 is caused in whole or in part by the criminal acts of ~~his or her~~ *the*
3 *person's* spouse in violation of this section, the community property
4 may not be used to discharge the liability of the offending spouse
5 for restitution to the injured spouse, required by Section 1203.04,
6 as operative on or before August 2, 1995, or Section 1202.4, or to
7 a shelter for costs with regard to the injured spouse and dependents,
8 required by this section, until all separate property of the offending
9 spouse is exhausted.

10 *SEC. 47. Section 290.06 of the Penal Code is amended to read:*

11 290.06. The static SARATSO, as set forth in Section 290.04,
12 shall be administered as follows:

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

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

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

37 (4) The State Department of State Hospitals shall assess every
38 eligible person who is committed to that department. Whenever
39 possible, the assessment shall take place at least four months, but
40 no sooner than 10 months, prior to release from commitment. The

1 State Department of State Hospitals shall record in a database the
2 risk assessment scores of persons assessed pursuant to this
3 paragraph and any risk assessment score that was submitted to the
4 department by a probation officer pursuant to Section 1203.

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

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

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

20 (b) Eligible persons not assessed pursuant to subdivision (a)
21 may be assessed as follows:

22 (1) Upon request of the law enforcement agency in the
23 jurisdiction in which the person is registered pursuant to Sections
24 290 to 290.023, inclusive, the person shall be assessed. The law
25 enforcement agency may enter into a memorandum of
26 understanding with a probation department to perform the
27 assessment. In the alternative, the law enforcement agency may
28 arrange to have personnel trained to perform the risk assessment
29 in accordance with subdivision (d) of Section 290.05.

30 (2) Eligible persons not assessed pursuant to subdivision (a)
31 may request that a risk assessment be performed. A request form
32 shall be available at registering law enforcement agencies. ~~The~~
33 ~~person requesting the assessment shall pay a fee for the assessment~~
34 ~~that shall be sufficient to cover the cost of the assessment.~~ The risk
35 assessment so requested shall be performed either by the probation
36 department, if a memorandum of understanding is established
37 between the law enforcement agency and the probation department,
38 or by personnel who have been trained to perform risk assessment
39 in accordance with subdivision (d) of Section 290.05.

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

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

13 *SEC. 48. Section 295 of the Penal Code is amended to read:*

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

17 (b) The people of the State of California set forth all of the
18 following:

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

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

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

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

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

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

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

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

25 (h) The Department of Justice shall be responsible for
26 implementing this chapter.

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

1 or print impressions. Before adopting any policy or regulation
2 implementing this chapter, the Department of Corrections and
3 Rehabilitation shall seek advice from and consult with the
4 Department of Justice DNA Laboratory Director.

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

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

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

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

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

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

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

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

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

39 (3) The counties shall be reimbursed for the costs of obtaining
40 specimens, samples, and print impressions subject to the conditions

1 and limitations set forth by the Department of Justice policies
2 governing reimbursement for collecting specimens, samples, and
3 print impressions pursuant to Section 76104.6 of the Government
4 Code.

5 (j) The trial court may order that ~~a portion of the costs assessed~~
6 ~~pursuant to Section 1203.1c, 1203.1e, or 1203.1m include the~~ *the*
7 *defendant be assessed* a reasonable portion of the cost of obtaining
8 specimens, samples, and print impressions in furtherance of this
9 chapter and the funds collected pursuant to this subdivision shall
10 be deposited in the DNA Identification Fund as created by Section
11 76104.6 of the Government Code.

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

14 *SEC. 49. Section 597.3 of the Penal Code is amended to read:*

15 597.3. (a) Every person who operates a live animal market
16 shall do all of the following:

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

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

23 (b) As used in this section:

24 (1) “Animal” means frogs, turtles, and birds sold for the purpose
25 of human consumption, with the exception of poultry.

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

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

1 or local agency may charge the participant a fee to take the course,
2 not to exceed one hundred dollars (\$100).

3 *SEC. 50. Section 670 of the Penal Code is amended to read:*

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

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

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

28 (d) Additionally, the court shall order any person sentenced
29 pursuant to this section to make full restitution to the victim or to
30 make restitution to the victim based on the person's ability to pay,
31 as defined in ~~subdivision (e) of Section 1203.1b.~~ *paragraph (2) of*
32 *subdivision (b) of Section 27755 of the Government Code.* The
33 payment of the restitution ordered by the court pursuant to this
34 subdivision shall be made a condition of any probation granted by
35 the court for an offense punishable under this section.
36 Notwithstanding any other provision of law, the period of probation
37 shall be at least five years or until full restitution is made to the
38 victim, whichever first occurs.

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

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

3 *SEC. 51. Section 987 of the Penal Code is amended to read:*

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

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

27 The court shall at the first opportunity inform the defendant's
28 trial counsel, whether retained by the defendant or court-appointed,
29 of the additional duties imposed upon trial counsel in any capital
30 case as set forth in paragraph (1) of subdivision (b) of Section
31 1240.1.

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

1 the recommendation. The determination by the court shall be made
2 on the record. Except as provided in Section 1214, the financial
3 statement or other financial information obtained from the
4 defendant shall be confidential and privileged and shall not be
5 admissible in evidence in any criminal proceeding except the
6 prosecution of an alleged offense of perjury based upon false
7 material contained in the financial statement. The financial
8 statement shall be made available to the prosecution only for
9 purposes of investigation of an alleged offense of perjury based
10 upon false material contained in the financial statement at the
11 conclusion of the proceedings for which the financial statement
12 was required to be submitted. ~~The financial statement and other~~
13 ~~financial information obtained from the defendant shall not be~~
14 ~~confidential and privileged in a proceeding under Section 987.8.~~

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

25 ~~(e) This section shall become operative on January 1, 2000.~~

26 *SEC. 52. Section 987.2 of the Penal Code is amended to read:*

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

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

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

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

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

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

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

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

20 (2) Categorize attorneys for panel placement on the basis of
21 experience.

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

26 (4) Seek to educate those panel members through an approved
27 training program.

28 ~~(5) Establish a cost-efficient plan to ensure maximum recovery~~
29 ~~of costs pursuant to Section 987.8.~~

30 (d) In a county of the first, second, or third class, the court shall
31 first utilize the services of the public defender to provide criminal
32 defense services for indigent defendants. In the event that the public
33 defender is unavailable and the county and the courts have
34 contracted with one or more responsible attorneys or with a panel
35 of attorneys to provide criminal defense services for indigent
36 defendants, the court shall utilize the services of the
37 county-contracted attorneys prior to assigning any other private
38 counsel. Nothing in this subdivision shall be construed to require
39 the appointment of counsel in any case in which the counsel has
40 a conflict of interest. In the interest of justice, a court may depart

1 from that portion of the procedure requiring appointment of a
2 county-contracted attorney after making a finding of good cause
3 and stating the reasons therefor on the record.

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

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

35 (g) Notwithstanding any other provision of this section, where
36 an indigent defendant is first charged in one county and establishes
37 an attorney-client relationship with the public defender, defense
38 services contract attorney, or private attorney, and where the
39 defendant is then charged with an offense in a second or subsequent
40 county, the court in the second or subsequent county may appoint

1 the same counsel as was appointed in the first county to represent
2 the defendant when all of the following conditions are met:

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

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

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

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

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

19 (j) As used in this section, “county of the first, second, or third
20 class” means the county of the first class, county of the second
21 class, and county of the third class as provided by Sections 28020,
22 28022, 28023, and 28024 of the Government Code.

23 *SEC. 53. Section 987.4 of the Penal Code is repealed.*

24 ~~987.4. When the public defender or an assigned counsel~~
25 ~~represents a person who is a minor in a criminal proceeding, at the~~
26 ~~expense of a county, the court may order the parent or guardian~~
27 ~~of such minor to reimburse the county for all or any part of such~~
28 ~~expense, if it determines that the parent or guardian has the ability~~
29 ~~to pay such expense.~~

30 *SEC. 54. Section 987.5 of the Penal Code is repealed.*

31 ~~987.5. (a) Every defendant shall be assessed a registration fee~~
32 ~~not to exceed fifty dollars (\$50) when represented by appointed~~
33 ~~counsel. Notwithstanding this subdivision, no fee shall be required~~
34 ~~of any defendant that is financially unable to pay the fee.~~

35 ~~(b) At the time of appointment of counsel by the court, or upon~~
36 ~~commencement of representation by the public defender, if prior~~
37 ~~to court appointment, the defendant shall be asked if he or she is~~
38 ~~financially able to pay the registration fee or any portion thereof.~~
39 ~~If the defendant indicates that he or she is able to pay the fee or a~~
40 ~~portion thereof, the court or public defender shall make an~~

1 ~~assessment in accordance with ability to pay. No fee shall be~~
2 ~~assessed against any defendant who asserts that he or she is unable~~
3 ~~to pay the fee or any portion thereof. No other inquiry concerning~~
4 ~~the defendant's ability to pay shall be made until proceedings are~~
5 ~~held pursuant to Section 987.8.~~

6 ~~(e) No defendant shall be denied the assistance of appointed~~
7 ~~counsel due solely to a failure to pay the registration fee. An order~~
8 ~~to pay the registration fee may be enforced in the manner provided~~
9 ~~for enforcement of civil judgments generally, but may not be~~
10 ~~enforced by contempt.~~

11 ~~(d) The fact that a defendant has or has not been assessed a fee~~
12 ~~pursuant to this section shall have no effect in any later proceedings~~
13 ~~held pursuant to Section 987.8, except that the defendant shall be~~
14 ~~given credit for any amounts paid as a registration fee toward any~~
15 ~~lien or assessment imposed pursuant to Section 987.8.~~

16 ~~(e) This section shall be operative in a county only upon the~~
17 ~~adoption of a resolution or ordinance by the board of supervisors~~
18 ~~electing to establish the registration fee and setting forth the manner~~
19 ~~in which the funds shall be collected and distributed. Collection~~
20 ~~procedures, accounting measures, and the distribution of the funds~~
21 ~~received pursuant to this section shall be within the discretion of~~
22 ~~the board of supervisors.~~

23 *SEC. 55. Section 987.8 of the Penal Code is repealed.*

24 ~~987.8.—(a) If the court finds that a defendant is entitled to~~
25 ~~counsel but is unable to employ counsel, the court may hold a~~
26 ~~hearing or, in its discretion, order the defendant to appear before~~
27 ~~a county officer designated by the court, to determine whether the~~
28 ~~defendant owns or has an interest in real property or other assets~~
29 ~~subject to attachment and not otherwise exempt by law. The court~~
30 ~~may impose a lien on any real property owned by the defendant,~~
31 ~~or in which the defendant has an interest to the extent permitted~~
32 ~~by law. The lien shall contain a legal description of the property,~~
33 ~~shall be recorded with the county recorder in the county or counties~~
34 ~~in which the property is located, and shall have priority over~~
35 ~~subsequently recorded liens or encumbrances. The county shall~~
36 ~~have the right to enforce its lien for the payment of providing legal~~
37 ~~assistance to an indigent defendant in the same manner as other~~
38 ~~lienholders by way of attachment, except that a county shall not~~
39 ~~enforce its lien on a defendant's principal place of residence~~

1 pursuant to a writ of execution. No lien shall be effective as against
2 a bona fide purchaser without notice of the lien.

3 (b) If a defendant is provided legal assistance, either through
4 the public defender or private counsel appointed by the court, upon
5 conclusion of the criminal proceedings in the trial court or upon
6 the withdrawal of the public defender or appointed private counsel,
7 the court may, after notice and a hearing, make a determination of
8 the present ability of the defendant to pay all or a portion of the
9 cost thereof. The court may, in its discretion, hold one such
10 additional hearing within six months of the conclusion of the
11 criminal proceedings. The court may, in its discretion, order the
12 defendant to appear before a county officer designated by the court
13 to make an inquiry into the ability of the defendant to pay all or a
14 portion of the legal assistance provided.

15 (e) (1) If the defendant hires counsel replacing a publicly
16 provided attorney; in which the public defender or appointed
17 counsel was required by the court to proceed with the case after a
18 determination by the public defender that the defendant is not
19 indigent; or, in which the defendant, at the conclusion of the case,
20 appears to have sufficient assets to repay, without undue hardship,
21 all or a portion of the cost of the legal assistance provided to him
22 or her, by monthly installments or otherwise; the court shall make
23 a determination of the defendant's ability to pay as provided in
24 subdivision (b), and may, in its discretion, make other orders as
25 provided in that subdivision.

26 (2) This subdivision applies to a county only upon the adoption
27 of a resolution by the board of supervisors to that effect.

28 (d) If the defendant, after having been ordered to appear before
29 a county officer, has been given proper notice and fails to appear
30 before a county officer within 20 working days, the county officer
31 shall recommend to the court that the full cost of the legal
32 assistance be ordered to be paid by the defendant. The notice to
33 the defendant shall contain all of the following:

34 (1) A statement of the cost of the legal assistance provided to
35 the defendant as determined by the court.

36 (2) The defendant's procedural rights under this section.

37 (3) The time limit within which the defendant's response is
38 required.

39 (4) A warning that if the defendant fails to appear before the
40 designated officer, the officer will recommend that the court order

1 the defendant to pay the full cost of the legal assistance provided
2 to him or her.

3 (e) (1) At a hearing, the defendant shall be entitled to, but shall
4 not be limited to, all of the following rights:

5 (A) The right to be heard in person.

6 (B) The right to present witnesses and other documentary
7 evidence.

8 (C) The right to confront and cross-examine adverse witnesses.

9 (D) The right to have the evidence against him or her disclosed
10 to him or her.

11 (E) The right to a written statement of the findings of the court.

12 (2) If the court determines that the defendant has the present
13 ability to pay all or a part of the cost, the court shall set the amount
14 to be reimbursed and order the defendant to pay the sum to the
15 county in the manner in which the court believes reasonable and
16 compatible with the defendant's financial ability. Failure of a
17 defendant who is not in custody to appear after due notice is a
18 sufficient basis for an order directing the defendant to pay the full
19 cost of the legal assistance determined by the court. The order to
20 pay all or a part of the costs may be enforced in the manner
21 provided for enforcement of money judgments generally but may
22 not be enforced by contempt.

23 (3) An order entered under this subdivision is subject to relief
24 under Section 473 of the Code of Civil Procedure.

25 (f) Prior to the furnishing of counsel or legal assistance by the
26 court, the court shall give notice to the defendant that the court
27 may, after a hearing, make a determination of the present ability
28 of the defendant to pay all or a portion of the cost of counsel. The
29 court shall also give notice that, if the court determines that the
30 defendant has the present ability, the court shall order him or her
31 to pay all or a part of the cost. The notice shall inform the defendant
32 that the order shall have the same force and effect as a judgment
33 in a civil action and shall be subject to enforcement against the
34 property of the defendant in the same manner as any other money
35 judgment.

36 (g) As used in this section:

37 (1) "Legal assistance" means legal counsel and supportive
38 services including, but not limited to, medical and psychiatric
39 examinations, investigative services, expert testimony, or any other

1 form of services provided to assist the defendant in the preparation
2 and presentation of his or her case.

3 (2) “Ability to pay” means the overall capability of the defendant
4 to reimburse the costs, or a portion of the costs, of the legal
5 assistance provided to him or her, and shall include, but not be
6 limited to, all of the following:

7 (A) The defendant’s present financial position.

8 (B) The defendant’s reasonably discernible future financial
9 position. In no event shall the court consider a period of more than
10 six months from the date of the hearing for purposes of determining
11 the defendant’s reasonably discernible future financial position.
12 Unless the court finds unusual circumstances, a defendant
13 sentenced to state prison, or to county jail for a period longer than
14 364 days, including, but not limited to, a sentence imposed pursuant
15 to subdivision (h) of Section 1170, shall be determined not to have
16 a reasonably discernible future financial ability to reimburse the
17 costs of his or her defense.

18 (C) The likelihood that the defendant shall be able to obtain
19 employment within a six-month period from the date of the hearing.

20 (D) Any other factor or factors that may bear upon the
21 defendant’s financial capability to reimburse the county for the
22 costs of the legal assistance provided to the defendant.

23 (h) At any time during the pendency of the judgment rendered
24 according to the terms of this section, a defendant against whom
25 a judgment has been rendered may petition the rendering court to
26 modify or vacate its previous judgment on the grounds of a change
27 in circumstances with regard to the defendant’s ability to pay the
28 judgment. The court shall advise the defendant of this right at the
29 time it renders the judgment.

30 (i) This section shall apply to all proceedings, including
31 contempt proceedings, in which the party is represented by a public
32 defender or appointed counsel and is convicted of a felony or a
33 misdemeanor.

34 *SEC. 56. Section 987.81 of the Penal Code is repealed.*

35 987.81. (a) If a defendant is provided legal assistance, either
36 through the public defender or private counsel appointed by the
37 court, upon conclusion of the criminal proceedings in the trial
38 court, or upon the withdrawal of the public defender or appointed
39 private counsel, the court shall consider the available information
40 concerning the defendant’s ability to pay the costs of legal

1 assistance and may, after notice, as provided in subdivision (b),
2 hold a hearing to make a determination of the present ability of
3 the defendant to pay all or a portion of the cost thereof.
4 Notwithstanding the above, if the court has ordered the probation
5 officer to investigate and report to the court pursuant to subdivision
6 (b) of Section 1203, the court may hold such a hearing. The court
7 may, in its discretion, hold one such additional hearing within six
8 months of the conclusion of the criminal proceedings.

9 (b) ~~Concurrent with counsel or legal assistance being furnished~~
10 ~~by the court, the court may order the defendant to appear before~~
11 ~~a county officer designated by the court to make an inquiry into~~
12 ~~the ability of the defendant to pay all or a portion of the legal~~
13 ~~assistance provided. Prior to the furnishing of counsel or legal~~
14 ~~assistance by the court, the court shall give notice to the defendant~~
15 ~~that the court may, after a hearing, make a determination of the~~
16 ~~present ability of the defendant to pay all or a portion of the cost~~
17 ~~of counsel. The court shall also give notice that, if the court~~
18 ~~determines that the defendant has the present ability, the court~~
19 ~~shall order him or her to pay all or a part of the cost. The notice~~
20 ~~shall inform the defendant that the order shall have the same force~~
21 ~~and effect as a judgment in a civil action and shall be subject to~~
22 ~~enforcement against the property of the defendant in the same~~
23 ~~manner as any other money judgment.~~

24 (c) ~~The provisions of this section shall apply only in a county~~
25 ~~in which the board of supervisors adopts a resolution which elects~~
26 ~~to proceed under this section.~~

27 (d) ~~This section shall apply only when the defendant is convicted~~
28 ~~of a felony or a misdemeanor.~~

29 *SEC. 57. Section 1000.3 of the Penal Code is amended to read:*

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

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

1 (c) If the court finds that the defendant is not performing
2 satisfactorily in the assigned program, or the court finds that the
3 defendant has been convicted of a crime as indicated in subdivision
4 (a), the court shall schedule the matter for further proceedings as
5 otherwise provided in this code.

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

8 (e) Prior to dismissing the charge or charges or terminating
9 pretrial diversion, the court shall consider the defendant's ability
10 to pay and whether the defendant has paid a diversion restitution
11 fee pursuant to Section 1001.90, if ordered, and has met his or her
12 *their* financial obligation to the program, if any. ~~As provided in~~
13 ~~Section 1203.1b, the defendant shall reimburse the probation~~
14 ~~department for the reasonable cost of any program investigation~~
15 ~~or progress report filed with the court as directed pursuant to~~
16 ~~Sections 1000.1 and 1000.2.~~

17 *SEC. 58. Section 1001.15 of the Penal Code is repealed.*

18 ~~1001.15.—(a) In addition to the fees authorized or required by~~
19 ~~other provisions of law, a judge may require the payment of an~~
20 ~~administrative fee, as part of an enrollment fee in a diversion~~
21 ~~program, by a defendant accused of a felony to cover the actual~~
22 ~~cost of any criminalistics laboratory analysis, the actual cost of~~
23 ~~processing a request or application for diversion, and the actual~~
24 ~~cost of supervising the divertee pursuant to Chapter 2.5~~
25 ~~(commencing with Section 1000), not to exceed five hundred~~
26 ~~dollars (\$500). The fee shall be payable at the time of enrollment~~
27 ~~in the diversion program. The court shall take into consideration~~
28 ~~the defendant's ability to pay, and no defendant shall be denied~~
29 ~~diversion because of his or her inability to pay.~~

30 ~~(b) As used in this section, "criminalistics laboratory" means a~~
31 ~~laboratory operated by, or under contract with a city, county, or~~
32 ~~other public agency, including a criminalistics laboratory of the~~
33 ~~Department of Justice, which has not less than one regularly~~
34 ~~employed forensic scientist engaged in the analysis of solid dose~~
35 ~~material and body fluids for controlled substances, and which is~~
36 ~~registered as an analytical laboratory with the Drug Enforcement~~
37 ~~Administration of the United States Department of Justice for the~~
38 ~~processing of all scheduled controlled substances.~~

39 ~~(c) In addition to the fees authorized or required by other~~
40 ~~provisions of law, a judge may require the payment of an~~

1 administrative fee, as part of an enrollment fee in a diversion
2 program, by a defendant accused of an act charged as, or reduced
3 to, a misdemeanor to cover the actual cost of processing a request
4 or application for diversion pursuant to Chapter 2.6 (commencing
5 with Section 1000.6), the actual costs of reporting to the court on
6 a defendant's eligibility and suitability for diversion, the actual
7 cost of supervising the divertee, and for the actual costs of
8 performing any duties required pursuant to Section 1000.9, not to
9 exceed three hundred dollars (\$300). The fee shall be payable at
10 the time of enrollment in the diversion program. The fee shall be
11 determined on a sliding scale according to the defendant's ability
12 to pay, and no defendant shall be denied diversion because of his
13 or her inability to pay.

14 (d) The fee established pursuant to this section may not exceed
15 the actual costs required for the programs authorized to be
16 reimbursed by this fee. All proceeds from the fee established
17 pursuant to this section shall be allocated only for the programs
18 authorized to be reimbursed by this fee.

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

22 *SEC. 59. Section 1001.16 of the Penal Code is repealed.*

23 1001.16. (a) In addition to the fees authorized or required by
24 other provisions of law, a judge may require the payment of an
25 administrative fee, as part of an enrollment fee in a diversion
26 program, by a defendant accused of a misdemeanor to cover the
27 actual cost of any criminalistics laboratory analysis in a case
28 involving a violation of the California Uniform Controlled
29 Substances Act under Division 10 (commencing with Section
30 11000) of the Health and Safety Code, the actual cost of processing
31 a request or application for diversion, and the actual cost of
32 supervising the divertee, not to exceed three hundred dollars
33 (\$300). The fee shall be payable at the time of enrollment in the
34 diversion program. The court shall take into consideration the
35 defendant's ability to pay, and no defendant shall be denied
36 diversion because of his or her inability to pay.

37 (b) As used in this section, "criminalistics laboratory" means a
38 laboratory operated by, or under contract with, a city, county, or
39 other public agency, including a criminalistics laboratory of the
40 Department of Justice, which has not less than one regularly

1 employed forensic scientist engaged in the analysis of solid dose
2 material and body fluids for controlled substances and which is
3 registered as an analytical laboratory with the Drug Enforcement
4 Administration of the United States Department of Justice for the
5 processing of all scheduled controlled substances.

6 ~~(e) This section shall apply to all deferred entry of judgment
7 and misdemeanor pretrial diversion programs established pursuant
8 to this title.~~

9 ~~(d) The fee established pursuant to this section may not exceed
10 the actual costs required for the programs authorized to be
11 reimbursed by this fee. All proceeds from the fee established
12 pursuant to this section shall be allocated only for the programs
13 authorized to be reimbursed by this fee.~~

14 ~~(e) As used in this section, “diversion” also means deferred
15 entry of judgment pursuant to Chapter 2.5 (commencing with
16 Section 1000).~~

17 *SEC. 60. Section 1001.90 of the Penal Code is amended to*
18 *read:*

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

26 (b) The diversion restitution fee imposed pursuant to this section
27 shall be set at the discretion of the court and shall be commensurate
28 with the seriousness of the offense, but shall not be less than one
29 hundred dollars (\$100), and not more than one thousand dollars
30 (\$1,000).

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

38 (d) In setting the amount of the diversion restitution fee in excess
39 of the one hundred dollar (\$100) minimum, the court shall consider
40 any relevant factors, including, but not limited to, the defendant’s

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

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

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

22 ~~(g) The board of supervisors of any county may impose a fee
23 at its discretion to cover the actual administrative costs of collection
24 of the restitution fee, not to exceed 10 percent of the amount
25 ordered to be paid. Any fee imposed pursuant to this subdivision
26 shall be deposited in the general fund of the county.~~

27 ~~(h) The state shall pay the county agency responsible for
28 collecting the diversion restitution fee owed to the Restitution Fund
29 under this section, 10 percent of the funds so owed and collected
30 by the county agency and deposited in the Restitution Fund. This
31 payment shall be made only when the funds are deposited in the
32 Restitution Fund within 45 days of the end of the month in which
33 the funds are collected. Receiving 10 percent of the moneys
34 collected as being owed to the Restitution Fund shall be considered
35 an incentive for collection efforts and shall be used for furthering
36 these collection efforts. The 10 percent rebates shall be used to
37 augment the budgets for the county agencies responsible for
38 collection of funds owed to the Restitution Fund as provided in
39 this section. The 10 percent rebates shall not be used to supplant
40 county funding.~~

1 (i)

2 (g) As used in this section, “diversion” also means deferred
3 entry of judgment pursuant to Chapter 2.5 (commencing with
4 Section 1000).

5 *SEC. 61. Section 1202.4 of the Penal Code is amended to read:*

6 1202.4. (a) (1) It is the intent of the Legislature that a victim
7 of crime who incurs an economic loss as a result of the commission
8 of a crime shall receive restitution directly from a defendant
9 convicted of that crime.

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

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

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

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

20 (b) In every case where a person is convicted of a crime, the
21 court shall impose a separate and additional restitution fine, unless
22 it finds compelling and extraordinary reasons for not doing so and
23 states those reasons on the record.

24 (1) The restitution fine shall be set at the discretion of the court
25 and commensurate with the seriousness of the offense. If the person
26 is convicted of a felony, the fine shall not be less than three hundred
27 dollars (\$300) and not more than ten thousand dollars (\$10,000).
28 If the person is convicted of a misdemeanor, the fine shall not be
29 less than one hundred fifty dollars (\$150) and not more than one
30 thousand dollars (\$1,000).

31 (2) In setting a felony restitution fine, the court may determine
32 the amount of the fine as the product of the minimum fine pursuant
33 to paragraph (1) multiplied by the number of years of imprisonment
34 the defendant is ordered to serve, multiplied by the number of
35 felony counts of which the defendant is convicted.

36 (c) The court shall impose the restitution fine unless it finds
37 compelling and extraordinary reasons for not doing so and states
38 those reasons on the record. A defendant’s inability to pay shall
39 not be considered a compelling and extraordinary reason not to
40 impose a restitution fine. Inability to pay may be considered only

1 in increasing the amount of the restitution fine in excess of the
2 minimum fine pursuant to paragraph (1) of subdivision (b). The
3 court may specify that funds confiscated at the time of the
4 defendant's arrest, except for funds confiscated pursuant to Chapter
5 8 (commencing with Section 11469) of Division 10 of the Health
6 and Safety Code, be applied to the restitution fine if the funds are
7 not exempt for spousal or child support or subject to any other
8 legal exemption.

9 (d) In setting the amount of the fine pursuant to subdivision (b)
10 in excess of the minimum fine pursuant to paragraph (1) of
11 subdivision (b), the court shall consider any relevant factors,
12 including, but not limited to, the defendant's inability to pay, the
13 seriousness and gravity of the offense and the circumstances of its
14 commission, any economic gain derived by the defendant as a
15 result of the crime, the extent to which any other person suffered
16 losses as a result of the crime, and the number of victims involved
17 in the crime. Those losses may include pecuniary losses to the
18 victim or ~~his or her~~ *the victim's* dependents as well as intangible
19 losses, such as psychological harm caused by the crime.
20 Consideration of a defendant's inability to pay may include ~~his or~~
21 ~~her~~ *the defendant's* future earning capacity. A defendant shall bear
22 the burden of demonstrating ~~his or her~~ *the defendant's* inability to
23 pay. Express findings by the court as to the factors bearing on the
24 amount of the fine shall not be required. A separate hearing for
25 the fine shall not be required.

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

31 (f) Except as provided in subdivisions ~~(q) and (r)~~; *(p) and (q)*,
32 in every case in which a victim has suffered economic loss as a
33 result of the defendant's conduct, the court shall require that the
34 defendant make restitution to the victim or victims in an amount
35 established by court order, based on the amount of loss claimed
36 by the victim or victims or any other showing to the court. If the
37 amount of loss cannot be ascertained at the time of sentencing, the
38 restitution order shall include a provision that the amount shall be
39 determined at the direction of the court. The court shall order full
40 restitution. The court may specify that funds confiscated at the

1 time of the defendant's arrest, except for funds confiscated pursuant
2 to Chapter 8 (commencing with Section 11469) of Division 10 of
3 the Health and Safety Code, be applied to the restitution order if
4 the funds are not exempt for spousal or child support or subject to
5 any other legal exemption.

6 (1) The defendant has the right to a hearing before a judge to
7 dispute the determination of the amount of restitution. The court
8 may modify the amount, on its own motion or on the motion of
9 the district attorney, the victim or victims, or the defendant. If a
10 motion is made for modification of a restitution order, the victim
11 shall be notified of that motion at least 10 days prior to the
12 proceeding held to decide the motion. A victim at a restitution
13 hearing or modification hearing described in this paragraph may
14 testify by live, two-way audio and video transmission, if testimony
15 by live, two-way audio and video transmission is available at the
16 court.

17 (2) Determination of the amount of restitution ordered pursuant
18 to this subdivision shall not be affected by the indemnification or
19 subrogation rights of a third party. Restitution ordered pursuant to
20 this subdivision shall be ordered to be deposited in the Restitution
21 Fund to the extent that the victim, as defined in subdivision (k),
22 has received assistance from the California Victim Compensation
23 Board pursuant to Chapter 5 (commencing with Section 13950)
24 of Part 4 of Division 3 of Title 2 of the Government Code.

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

31 (A) Full or partial payment for the value of stolen or damaged
32 property. The value of stolen or damaged property shall be the
33 replacement cost of like property, or the actual cost of repairing
34 the property when repair is possible.

35 (B) Medical expenses.

36 (C) Mental health counseling expenses.

37 (D) Wages or profits lost due to injury incurred by the victim,
38 and if the victim is a minor, wages or profits lost by the minor's
39 parent, parents, guardian, or guardians, while caring for the injured
40 minor. Lost wages shall include commission income as well as

1 base wages. Commission income shall be established by evidence
2 of commission income during the 12-month period prior to the
3 date of the crime for which restitution is being ordered, unless
4 good cause for a shorter time period is shown.

5 (E) Wages or profits lost by the victim, and if the victim is a
6 minor, wages or profits lost by the minor's parent, parents,
7 guardian, or guardians, due to time spent as a witness or in assisting
8 the police or prosecution. Lost wages shall include commission
9 income as well as base wages. Commission income shall be
10 established by evidence of commission income during the
11 12-month period prior to the date of the crime for which restitution
12 is being ordered, unless good cause for a shorter time period is
13 shown.

14 (F) Noneconomic losses, including, but not limited to,
15 psychological harm, for felony violations of Section 288, 288.5,
16 or 288.7.

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

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

21 (I) Expenses incurred by an adult victim in relocating away
22 from the defendant, including, but not limited to, deposits for
23 utilities and telephone service, deposits for rental housing,
24 temporary lodging and food expenses, clothing, and personal items.
25 Expenses incurred pursuant to this section shall be verified by law
26 enforcement to be necessary for the personal safety of the victim
27 or by a mental health treatment provider to be necessary for the
28 emotional well-being of the victim.

29 (J) Expenses to install or increase residential security incurred
30 related to a violation of Section 273.5, or a violent felony as defined
31 in subdivision (c) of Section 667.5, including, but not limited to,
32 a home security device or system, or replacing or increasing the
33 number of locks.

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

38 (L) Expenses for a period of time reasonably necessary to make
39 the victim whole, for the costs to monitor the credit report of, and

1 for the costs to repair the credit of, a victim of identity theft, as
2 defined in Section 530.5.

3 (4) (A) If, as a result of the defendant's conduct, the Restitution
4 Fund has provided assistance to or on behalf of a victim or
5 derivative victim pursuant to Chapter 5 (commencing with Section
6 13950) of Part 4 of Division 3 of Title 2 of the Government Code,
7 the amount of assistance provided shall be presumed to be a direct
8 result of the defendant's criminal conduct and shall be included
9 in the amount of the restitution ordered.

10 (B) The amount of assistance provided by the Restitution Fund
11 shall be established by copies of bills submitted to the California
12 Victim Compensation Board reflecting the amount paid by the
13 board and whether the services for which payment was made were
14 for medical or dental expenses, funeral or burial expenses, mental
15 health counseling, wage or support losses, or rehabilitation.
16 Certified copies of these bills provided by the board and redacted
17 to protect the privacy and safety of the victim or any legal privilege,
18 together with a statement made under penalty of perjury by the
19 custodian of records that those bills were submitted to and were
20 paid by the board, shall be sufficient to meet this requirement.

21 (C) If the defendant offers evidence to rebut the presumption
22 established by this paragraph, the court may release additional
23 information contained in the records of the board to the defendant
24 only after reviewing that information in camera and finding that
25 the information is necessary for the defendant to dispute the amount
26 of the restitution order.

27 (5) Except as provided in paragraph (6), in any case in which
28 an order may be entered pursuant to this subdivision, the defendant
29 shall prepare and file a disclosure identifying all assets, income,
30 and liabilities in which the defendant held or controlled a present
31 or future interest as of the date of the defendant's arrest for the
32 crime for which restitution may be ordered. The financial disclosure
33 statements shall be made available to the victim and the board
34 pursuant to Section 1214. The disclosure shall be signed by the
35 defendant upon a form approved or adopted by the Judicial Council
36 for the purpose of facilitating the disclosure. A defendant who
37 willfully states as true a material matter that ~~he or she~~ *the defendant*
38 knows to be false on the disclosure required by this subdivision is
39 guilty of a misdemeanor, unless this conduct is punishable as
40 perjury or another provision of law provides for a greater penalty.

1 (6) A defendant who fails to file the financial disclosure required
2 in paragraph (5), but who has filed a financial affidavit or financial
3 information pursuant to subdivision (c) of Section 987, shall be
4 deemed to have waived the confidentiality of that affidavit or
5 financial information as to a victim in whose favor the order of
6 restitution is entered pursuant to subdivision (f). The affidavit or
7 information shall serve in lieu of the financial disclosure required
8 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not
9 apply.

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

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

19 (A) A report submitted pursuant to subparagraph (D) of
20 paragraph (2) of subdivision (b) of Section 1203 or subdivision
21 (g) of Section 1203.

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

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

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

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

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

34 (C) A factor indicating that the interests of justice would not be
35 served by conditionally sentencing the defendant under Section
36 1203.

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

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

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

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

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

14 (11) If a defendant has any remaining unpaid balance on a
15 restitution order or fine 120 days prior to ~~his or her~~ *the defendant's*
16 scheduled release from probation or 120 days prior to ~~his or her~~
17 *the defendant's* completion of a conditional sentence, the defendant
18 shall prepare and file a new and updated financial disclosure
19 identifying all assets, income, and liabilities in which the defendant
20 holds or controls or has held or controlled a present or future
21 interest during the defendant's period of probation or conditional
22 sentence. The financial disclosure shall be made available to the
23 victim and the board pursuant to Section 1214. The disclosure
24 shall be signed and prepared by the defendant on the same form
25 as described in paragraph (5). A defendant who willfully states as
26 true a material matter that ~~he or she~~ *the defendant* knows to be
27 false on the disclosure required by this subdivision is guilty of a
28 misdemeanor, unless this conduct is punishable as perjury or
29 another provision of law provides for a greater penalty. The
30 financial disclosure required by this paragraph shall be filed with
31 the clerk of the court no later than 90 days prior to the defendant's
32 scheduled release from probation or completion of the defendant's
33 conditional sentence.

34 (12) In cases where an employer is convicted of a crime against
35 an employee, a payment to the employee or the employee's
36 dependent that is made by the employer's workers' compensation
37 insurance carrier shall not be used to offset the amount of the
38 restitution order unless the court finds that the defendant
39 substantially met the obligation to pay premiums for that insurance
40 coverage.

1 (g) A defendant’s inability to pay shall not be a consideration
2 in determining the amount of a restitution order.

3 (h) The district attorney may request an order of examination
4 pursuant to the procedures specified in Article 2 (commencing
5 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part
6 2 of the Code of Civil Procedure, in order to determine the
7 defendant’s financial assets for purposes of collecting on the
8 restitution order.

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

11 (j) The making of a restitution order pursuant to subdivision (f)
12 shall not affect the right of a victim to recovery from the Restitution
13 Fund as otherwise provided by law, except to the extent that
14 restitution is actually collected pursuant to the order. Restitution
15 collected pursuant to this subdivision shall be credited to any other
16 judgments for the same losses obtained against the defendant
17 arising out of the crime for which the defendant was convicted.

18 (k) For purposes of this section, “victim” shall include all of
19 the following:

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

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

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

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

29 (B) At the time of the crime was living in the household of the
30 victim.

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

35 (D) Is another family member of the victim, including, but not
36 limited to, the victim’s fiancé or fiancée, and who witnessed the
37 crime.

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

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

4 (5) A governmental entity that is responsible for repairing,
5 replacing, or restoring public or privately owned property that has
6 been defaced with graffiti or other inscribed material, as defined
7 in subdivision (e) of Section 594, and that has sustained an
8 economic loss as the result of a violation of Section 594, 594.3,
9 594.4, 640.5, 640.6, or 640.7.

10 ~~(l) At its discretion, the board of supervisors of a county may~~
11 ~~impose a fee to cover the actual administrative cost of collecting~~
12 ~~the restitution fine, not to exceed 10 percent of the amount ordered~~
13 ~~to be paid, to be added to the restitution fine and included in the~~
14 ~~order of the court, the proceeds of which shall be deposited in the~~
15 ~~general fund of the county.~~

16 ~~(m)~~

17 (l) In every case in which the defendant is granted probation,
18 the court shall make the payment of restitution fines and orders
19 imposed pursuant to this section a condition of probation. Any
20 portion of a restitution order that remains unsatisfied after a
21 defendant is no longer on probation shall continue to be enforceable
22 by a victim pursuant to Section 1214 until the obligation is
23 satisfied.

24 ~~(n)~~

25 (m) If the court finds and states on the record compelling and
26 extraordinary reasons why a restitution fine should not be required,
27 the court shall order, as a condition of probation, that the defendant
28 perform specified community service, unless it finds and states on
29 the record compelling and extraordinary reasons not to require
30 community service in addition to the finding that a restitution fine
31 should not be required. Upon revocation of probation, the court
32 shall impose the restitution fine pursuant to this section.

33 ~~(o)~~

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

36 ~~(p)~~

37 (o) The court clerk shall notify the California Victim
38 Compensation and Government Claims Board within 90 days of
39 an order of restitution being imposed if the defendant is ordered
40 to pay restitution to the board due to the victim receiving

1 compensation from the Restitution Fund. Notification shall be
2 accomplished by mailing a copy of the court order to the board,
3 which may be done periodically by bulk mail or email.

4 ~~(q)~~

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

20 ~~(r)~~

21 (q) (1) In addition to any other penalty or fine, the court shall
22 order a person who has been convicted of a violation of Section
23 350, 653h, 653s, 653u, 653w, or 653aa that involves a recording
24 or audiovisual work to make restitution to an owner or lawful
25 producer, or trade association acting on behalf of the owner or
26 lawful producer, of a phonograph record, disc, wire, tape, film, or
27 other device or article from which sounds or visual images are
28 derived that suffered economic loss resulting from the violation.
29 The order of restitution shall be based on the aggregate wholesale
30 value of lawfully manufactured and authorized devices or articles
31 from which sounds or visual images are devised corresponding to
32 the number of nonconforming devices or articles involved in the
33 offense, unless a higher value can be proved in the case of (A) an
34 unreleased audio work, or (B) an audiovisual work that, at the time
35 of unauthorized distribution, has not been made available in copies
36 for sale to the general public in the United States on a digital
37 versatile disc. For purposes of this subdivision, possession of
38 nonconforming devices or articles intended for sale constitutes
39 actual economic loss to an owner or lawful producer in the form
40 of displaced legitimate wholesale purchases. The order of

1 restitution shall also include reasonable costs incurred as a result
2 of an investigation of the violation undertaken by the owner, lawful
3 producer, or trade association acting on behalf of the owner or
4 lawful producer. “Aggregate wholesale value” means the average
5 wholesale value of lawfully manufactured and authorized sound
6 or audiovisual recordings. Proof of the specific wholesale value
7 of each nonconforming device or article is not required.

8 (2) As used in this subdivision, “audiovisual work” and
9 “recording” shall have the same meaning as in Section 653w.

10 *SEC. 62. Section 1202.42 of the Penal Code is amended to*
11 *read:*

12 1202.42. Upon entry of a restitution order under subdivision
13 (c) of Section 13967 of the Government Code, as operative on or
14 before September 28, 1994, paragraph (3) of subdivision (a) of
15 Section 1202.4 of this code, or Section 1203.04 as operative on or
16 before August 2, 1995, the following shall apply:

17 (a) The court shall enter a separate order for income deduction
18 upon determination of the defendant’s ability to pay, regardless
19 of the probation status, in accordance with Section 1203.
20 Determination of a defendant’s ability to pay may include ~~his or~~
21 ~~her~~ *the defendant’s* future earning capacity. A defendant shall bear
22 the burden of demonstrating lack of ~~his or her~~ *the defendant’s*
23 ability to pay. Express findings by the court as to the factors
24 bearing on the amount of the fine shall not be required.

25 (b) (1) In any case in which the court enters a separate order
26 for income deduction under this section, the order shall be stayed
27 until the agency in the county responsible for collection of
28 restitution determines that the defendant has failed to meet ~~his or~~
29 ~~her~~ *the defendant’s* obligation under the restitution order and the
30 defendant has not provided the agency with good cause for the
31 failure in accordance with paragraph (2).

32 (2) If the agency responsible for collection of restitution receives
33 information that the defendant has failed to meet ~~his or her~~ *the*
34 *defendant’s* obligation under the restitution order, the agency shall
35 request the defendant to provide evidence indicating that timely
36 payments have been made or provide information establishing
37 good cause for the failure. If the defendant fails to either provide
38 the agency with the evidence or fails to establish good cause within
39 five days of the request, the agency shall immediately inform the
40 defendant of that fact, and shall inform the clerk of the court in

1 order that an income deduction order will be served pursuant to
2 subdivision (f) following a 15-day appeal period. The defendant
3 may apply for a hearing to contest the lifting of the stay pursuant
4 to subdivision (f).

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

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

11 (e) When the court orders the income deduction, the court shall
12 furnish to the defendant a statement of ~~his or her~~ *the defendant's*
13 rights, remedies, and duties in regard to the income deduction
14 order. The statement shall state all of the following:

15 ~~(1) All fees or interest that will be imposed.~~

16 ~~(2)~~

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

19 ~~(3)~~

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

22 ~~(4)~~

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

25 ~~(5)~~

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

29 ~~(6)~~

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

33 ~~(7)~~

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

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

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

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

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

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

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

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

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

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

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

38 ~~(E) Provide that the payer may collect up to five dollars (\$5)~~
39 ~~against the defendant’s income to reimburse the payer for~~

1 ~~administrative costs for the first income deduction and up to one~~
2 ~~dollar (\$1) for each deduction thereafter.~~

3 ~~(F)~~

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

7 ~~(G)~~

8 (F) Instruct the payer that, when ~~he or she~~ *the payer* no longer
9 provides income to the defendant, ~~he or she~~ *the payer* shall notify
10 the clerk of the court and shall also provide the defendant's last
11 known address and the name and address of the defendant's new
12 payer, if known, and that, if the payer violates this provision, the
13 payer is subject to a civil penalty not to exceed two hundred fifty
14 dollars (\$250) for the first violation or five hundred dollars (\$500)
15 for any subsequent violation.

16 ~~(H)~~

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

23 ~~(I)~~

24 (H) Inform the payer that when ~~he or she~~ *the payer* receives
25 income deduction orders requiring that the income of two or more
26 defendants be deducted and sent to the same clerk of a court, ~~he~~
27 ~~or she~~ *the payer* may combine the amounts that are to be paid to
28 the depository in a single payment as long as ~~he or she~~ *the payer*
29 identifies that portion of the payment attributable to each defendant.

30 ~~(J)~~

31 (I) Inform the payer that if the payer receives more than one
32 income deduction order against the same defendant, ~~he or she~~ *the*
33 *payer* shall contact the court for further instructions.

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

38 (6) A person may not discharge, refuse to employ, or take
39 disciplinary action against an employee because of the enforcement
40 of an income deduction order. An employer who violates this

1 provision is subject to a civil penalty not to exceed two hundred
2 fifty dollars (\$250) for the first violation or five hundred dollars
3 (\$500) for any subsequent violation.

4 (7) When a payer no longer provides income to a defendant, ~~he~~
5 ~~or she~~ *the payer* shall notify the clerk of the court and shall provide
6 the defendant's last known address and the name and address of
7 the defendant's new payer, if known. A payer who violates this
8 provision is subject to a civil penalty not to exceed two hundred
9 fifty dollars (\$250) for the first violation or five hundred dollars
10 (\$500) for a subsequent violation.

11 (g) If the defendant has failed to meet ~~his or her~~ *the defendant's*
12 obligation under the restitution order and the defendant has not
13 provided good cause for the failure in accordance with the process
14 set forth in paragraph (2) of subdivision (b), the court may, upon
15 the request of the prosecuting attorney, order that the prosecuting
16 attorney be given authority to use lien procedures applicable to
17 the defendant, including, but not limited to, a writ of attachment
18 of property. This authority is in addition to any authority granted
19 to the prosecuting attorney in subdivision (h).

20 (1) If the court authorizes a lien or other similar encumbrance
21 on real property pursuant to this subdivision, the court shall, within
22 15 days, furnish to the defendant a statement of ~~his or her~~ *the*
23 *defendant's* rights, remedies, and duties in regard to the order. The
24 statement shall state all of the following:

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

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

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

30 (D) That enforcement of the lien order may only be contested
31 on the ground of mistake of fact regarding the amount of restitution
32 owed or on the ground of mistake of fact regarding the defendant's
33 ownership interest of the property to be encumbered.

34 (E) That a hearing is available in accordance with paragraph
35 (2).

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

39 (2) The defendant, within 15 days after being informed that a
40 lien or other similar encumbrance on real property has been

1 ordered, may apply for a hearing to contest the enforcement order
2 on the ground of mistake of fact regarding the amount of restitution
3 owed, on the ground of mistake of fact regarding the defendant's
4 ownership interest of the property to be encumbered, or on the
5 ground that the defendant has established good cause for the
6 nonpayment. The timely request for a hearing shall stay any
7 execution on the lien until a hearing is held and a determination
8 is made as to whether the enforcement order is proper.

9 (3) Upon payment of the restitution order in full, the defendant
10 may petition the court to issue an order directing the clerk of the
11 court to execute a full reconveyance of title, a certificate of
12 discharge, or a full release of any lien against real property created
13 to secure performance of the restitution order.

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

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

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

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

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

32 (2) That the defendant reasonably believes there has been an
33 administrative error with regard to ~~his or her~~ *the defendant's*
34 obligation for payment.

35 (3) Any other similar and justifiable reasons.

36 *SEC. 63. Section 1203 of the Penal Code is amended to read:*

37 1203. (a) As used in this code, "probation" means the
38 suspension of the imposition or execution of a sentence and the
39 order of conditional and revocable release in the community under
40 the supervision of a probation officer. As used in this code,

1 “conditional sentence” means the suspension of the imposition or
2 execution of a sentence and the order of revocable release in the
3 community subject to conditions established by the court without
4 the supervision of a probation officer. It is the intent of the
5 Legislature that both conditional sentence and probation are
6 authorized whenever probation is authorized in any code as a
7 sentencing option for infractions or misdemeanors.

8 (b) (1) Except as provided in subdivision (j), if a person is
9 convicted of a felony and is eligible for probation, before judgment
10 is pronounced, the court shall immediately refer the matter to a
11 probation officer to investigate and report to the court, at a specified
12 time, upon the circumstances surrounding the crime and the prior
13 history and record of the person, which may be considered either
14 in aggravation or mitigation of the punishment.

15 (2) (A) The probation officer shall immediately investigate and
16 make a written report to the court of ~~his or her~~ *the officer's* findings
17 and recommendations, including ~~his or her~~ *the officer's*
18 recommendations as to the granting or denying of probation and
19 the conditions of probation, if granted.

20 (B) Pursuant to Section 828 of the Welfare and Institutions
21 Code, the probation officer shall include in ~~his or her~~ *the officer's*
22 report any information gathered by a law enforcement agency
23 relating to the taking of the defendant into custody as a minor,
24 which shall be considered for purposes of determining whether
25 adjudications of commissions of crimes as a juvenile warrant a
26 finding that there are circumstances in aggravation pursuant to
27 Section 1170 or to deny probation.

28 (C) If the person was convicted of an offense that requires ~~him~~
29 ~~or her~~ *the person* to register as a sex offender pursuant to Sections
30 290 to 290.023, inclusive, or if the probation report recommends
31 that registration be ordered at sentencing pursuant to Section
32 290.006, the probation officer's report shall include the results of
33 the State-Authorized Risk Assessment Tool for Sex Offenders
34 (SARATSO) administered pursuant to Sections 290.04 to 290.06,
35 inclusive, if applicable.

36 (D) The probation officer may also include in the report ~~his or~~
37 ~~her~~ *the officer's* recommendation of both of the following:

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

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

4 (E) The report shall be made available to the court and the
5 prosecuting and defense attorneys at least five days, or upon request
6 of the defendant or prosecuting attorney nine days, prior to the
7 time fixed by the court for the hearing and determination of the
8 report, and shall be filed with the clerk of the court as a record in
9 the case at the time of the hearing. The time within which the report
10 shall be made available and filed may be waived by written
11 stipulation of the prosecuting and defense attorneys that is filed
12 with the court or an oral stipulation in open court that is made and
13 entered upon the minutes of the court.

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

28 (4) The preparation of the report or the consideration of the
29 report by the court may be waived only by a written stipulation of
30 the prosecuting and defense attorneys that is filed with the court
31 or an oral stipulation in open court that is made and entered upon
32 the minutes of the court, except that a waiver shall not be allowed
33 unless the court consents thereto. However, if the defendant is
34 ultimately sentenced and committed to the state prison, a probation
35 report shall be completed pursuant to Section 1203c.

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

39 (d) If a person is convicted of a misdemeanor, the court may
40 either refer the matter to the probation officer for an investigation

1 and a report or summarily pronounce a conditional sentence. If
2 the person was convicted of an offense that requires ~~him or her~~
3 *the person* to register as a sex offender pursuant to Sections 290
4 to 290.023, inclusive, or if the probation officer recommends that
5 the court, at sentencing, order the offender to register as a sex
6 offender pursuant to Section 290.006, the court shall refer the
7 matter to the probation officer for the purpose of obtaining a report
8 on the results of the State-Authorized Risk Assessment Tool for
9 Sex Offenders administered pursuant to Sections 290.04 to 290.06,
10 inclusive, if applicable, which the court shall consider. If the case
11 is not referred to the probation officer, in sentencing the person,
12 the court may consider any information concerning the person that
13 could have been included in a probation report. The court shall
14 inform the person of the information to be considered and permit
15 ~~him or her~~ *the person* to answer or controvert the information. For
16 this purpose, upon the request of the person, the court shall grant
17 a continuance before the judgment is pronounced.

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

21 (1) Unless the person had a lawful right to carry a deadly
22 weapon, other than a firearm, at the time of the perpetration of the
23 crime or ~~his or her~~ arrest, any person who has been convicted of
24 arson, robbery, carjacking, burglary, burglary with explosives,
25 rape with force or violence, torture, aggravated mayhem, murder,
26 attempt to commit murder, trainwrecking, kidnapping, escape from
27 the state prison, or a conspiracy to commit one or more of those
28 crimes and who was armed with the weapon at either of those
29 times.

30 (2) Any person who used, or attempted to use, a deadly weapon
31 upon a human being in connection with the perpetration of the
32 crime of which ~~he or she~~ *the person* has been convicted.

33 (3) Any person who willfully inflicted great bodily injury or
34 torture in the perpetration of the crime of which ~~he or she~~ *the*
35 *person* has been convicted.

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

39 (5) Unless the person has never been previously convicted once
40 in this state of a felony or in any other place of a public offense

1 which, if committed in this state, would have been punishable as
2 a felony, any person who has been convicted of burglary with
3 explosives, rape with force or violence, torture, aggravated
4 mayhem, murder, attempt to commit murder, trainwrecking,
5 extortion, kidnapping, escape from the state prison, a violation of
6 Section 286, 287, 288, or 288.5, or of former Section 288a, or a
7 conspiracy to commit one or more of those crimes.

8 (6) Any person who has been previously convicted once in this
9 state of a felony or in any other place of a public offense which,
10 if committed in this state, would have been punishable as a felony,
11 ~~if he or she~~ *the person* committed any of the following acts:

12 (A) Unless the person had a lawful right to carry a deadly
13 weapon at the time of the perpetration of the previous crime or ~~his~~
14 ~~or her~~ arrest for the previous crime, ~~he or she~~ *the person* was armed
15 with a weapon at either of those times.

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

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

21 (7) Any public official or peace officer of this state or any city,
22 county, or other political subdivision who, in the discharge of the
23 duties of ~~his or her~~ *their* public office or employment, accepted or
24 gave or offered to accept or give any bribe, embezzled public
25 money, or was guilty of extortion.

26 (8) Any person who knowingly furnishes or gives away
27 phencyclidine.

28 (9) Any person who intentionally inflicted great bodily injury
29 in the commission of arson under subdivision (a) of Section 451
30 or who intentionally set fire to, burned, or caused the burning of,
31 an inhabited structure or inhabited property in violation of
32 subdivision (b) of Section 451.

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

37 (11) Any person who possesses a short-barreled rifle or a
38 short-barreled shotgun under Section 33215, a machinegun under
39 Section 32625, or a silencer under Section 33410.

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

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

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

9 (g) If a person is not eligible for probation, the judge shall refer
10 the matter to the probation officer for an investigation of the facts
11 relevant to determination of the amount of a restitution fine
12 pursuant to subdivision (b) of Section 1202.4 in all cases where
13 the determination is applicable. The judge, ~~in his or her~~ *the judge's*
14 discretion, may direct the probation officer to investigate all facts
15 relevant to the sentencing of the person. Upon that referral, the
16 probation officer shall immediately investigate the circumstances
17 surrounding the crime and the prior record and history of the person
18 and make a written report to the court of ~~his or her~~ *the officer's*
19 findings. The findings shall include a recommendation of the
20 amount of the restitution fine as provided in subdivision (b) of
21 Section 1202.4.

22 (h) If a defendant is convicted of a felony and a probation report
23 is prepared pursuant to subdivision (b) or (g), the probation officer
24 may obtain and include in the report a statement of the comments
25 of the victim concerning the offense. The court may direct the
26 probation officer not to obtain a statement if the victim has in fact
27 testified at any of the court proceedings concerning the offense.

28 (i) A probationer shall not be released to enter another state
29 unless ~~his or her~~ *the probationer's* case has been referred to the
30 Administrator of the Interstate Probation and Parole Compacts,
31 pursuant to the Uniform Act for Out-of-State Probationer or Parolee
32 Supervision (Article 3 (commencing with Section 11175) of
33 Chapter 2 of Title 1 of ~~Part 4~~) and ~~the probationer has reimbursed~~
34 ~~the county that has jurisdiction over his or her probation case the~~
35 ~~reasonable costs of processing his or her request for interstate~~
36 ~~compact supervision. The amount and method of reimbursement~~
37 ~~shall be in accordance with Section 1203.1b. Part 4).~~

38 (j) In any court where a county financial evaluation officer is
39 available, in addition to referring the matter to the probation officer,
40 the court may order the defendant to appear before the county

1 financial evaluation officer for a financial evaluation of the
2 defendant's ability to pay restitution, in which case the county
3 financial evaluation officer shall report ~~his or her~~ *the county*
4 *financial evaluation officer's* findings regarding restitution ~~and~~
5 ~~other court-related costs~~ to the probation officer on the question
6 of the defendant's ability to pay ~~those costs~~. *restitution.*

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

12 (k) Probation shall not be granted to, nor shall the execution of,
13 or imposition of sentence be suspended for, any person who is
14 convicted of a violent felony, as defined in subdivision (c) of
15 Section 667.5, or a serious felony, as defined in subdivision (c) of
16 Section 1192.7, and who was on probation for a felony offense at
17 the time of the commission of the new felony offense.

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

22 *SEC. 64. Section 1203.016 of the Penal Code is amended to*
23 *read:*

24 1203.016. (a) Notwithstanding any other law, the board of
25 supervisors of any county may authorize the correctional
26 administrator, as defined in subdivision ~~(h)~~, (g), to offer a program
27 under which inmates committed to a county jail or other county
28 correctional facility or granted probation, or inmates participating
29 in a work furlough program, may voluntarily participate or
30 involuntarily be placed in a home detention program during their
31 sentence in lieu of confinement in a county jail or other county
32 correctional facility or program under the auspices of the probation
33 officer.

34 (b) The board of supervisors, in consultation with the
35 correctional administrator, may prescribe reasonable rules and
36 regulations under which a home detention program may operate.
37 As a condition of participation in the home detention program, the
38 inmate shall give ~~his or her~~ consent in writing to participate in the
39 home detention program and shall in writing agree to comply or,
40 for involuntary participation, the inmate shall be informed in

1 writing that ~~he or she~~ *the inmate* shall comply, with the rules and
2 regulations of the program, including, but not limited to, the
3 following rules:

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

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

11 (3) The participant shall agree to the use of electronic
12 monitoring, which may include Global Positioning System devices
13 or other supervising devices for the purpose of helping to verify
14 ~~his or her~~ compliance with the rules and regulations of the home
15 detention program. The devices shall not be used to eavesdrop or
16 record any conversation, except a conversation between the
17 participant and the person supervising the participant which is to
18 be used solely for the purposes of voice identification.

19 (4) The participant shall agree that the correctional administrator
20 in charge of the county correctional facility from which the
21 participant was released may, without further order of the court,
22 immediately retake the person into custody to serve the balance
23 of ~~his or her~~ *the person's* sentence if the electronic monitoring or
24 supervising devices are unable for any reason to properly perform
25 their function at the designated place of home detention, if the
26 person fails to remain within the place of home detention as
27 stipulated in the agreement, ~~if the person willfully fails to pay fees~~
28 ~~to the provider of electronic home detention services, as stipulated~~
29 ~~in the agreement, subsequent to the written notification of the~~
30 ~~participant that the payment has not been received and that return~~
31 ~~to custody may result,~~ *agreement*, or if the person for any other
32 reason no longer meets the established criteria under this section.
33 A copy of the agreement shall be delivered to the participant and
34 a copy retained by the correctional administrator.

35 (c) If the peace officer supervising a participant has reasonable
36 cause to believe that the participant is not complying with the rules
37 or conditions of the program, or that the electronic monitoring
38 devices are unable to function properly in the designated place of
39 confinement, the peace officer may, under general or specific
40 authorization of the correctional administrator, and without a

1 warrant of arrest, retake the person into custody to complete the
2 remainder of the original sentence.

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

14 (1) The rules and regulations and administrative policy of the
15 program shall be written and reviewed on an annual basis by the
16 county board of supervisors and the correctional administrator.
17 The rules and regulations shall be given to or made available to
18 any participant upon request.

19 (2) The correctional administrator, or ~~his or her~~ *the*
20 *administrator's* designee, shall have the sole discretionary authority
21 to permit program participation as an alternative to physical
22 custody. All persons referred or recommended by the court to
23 participate in the home detention program pursuant to subdivision
24 (e) who are denied participation or all persons removed from
25 program participation shall be notified in writing of the specific
26 reasons for the denial or removal. The notice of denial or removal
27 shall include the participant's appeal rights, as established by
28 program administrative policy.

29 (e) The court may recommend or refer a person to the
30 correctional administrator for consideration for placement in the
31 home detention program. The recommendation or referral of the
32 court shall be given great weight in the determination of acceptance
33 or denial. At the time of sentencing or at any time that the court
34 deems it necessary, the court may restrict or deny the defendant's
35 participation in a home detention program.

36 (f) The correctional administrator may permit home detention
37 program participants to seek and retain employment in the
38 community, attend psychological counseling sessions or
39 educational or vocational training classes, or seek medical and
40 dental assistance. Willful failure of the program participant to

1 return to the place of home detention not later than the expiration
2 of any period of time during which ~~he or she~~ *the participant* is
3 authorized to be away from the place of home detention pursuant
4 to this section and unauthorized departures from the place of home
5 detention are punishable as provided in Section 4532.

6 ~~(g) The board of supervisors may prescribe a program
7 administrative fee to be paid by each adult home detention
8 participant who is over 21 years of age and under the jurisdiction
9 of the criminal court that shall be determined according to his or
10 her ability to pay. Inability to pay all or a portion of the program
11 fees shall not preclude participation in the program, and eligibility
12 shall not be enhanced by reason of ability to pay. All program
13 administration and supervision fees shall be administered in
14 compliance with Section 1208.2.~~

15 ~~(h)~~

16 (g) As used in this section, “correctional administrator” means
17 the sheriff, probation officer, or director of the county department
18 of corrections.

19 ~~(i)~~

20 (h) Notwithstanding any other law, the police department of a
21 city where an office is located to which persons on an electronic
22 monitoring program report may request the county correctional
23 administrator to provide information concerning those persons.
24 This information shall be limited to the name, address, date of
25 birth, offense committed by the home detainee, and if available,
26 at the discretion of the supervising agency and solely for
27 investigatory purposes, current and historical GPS coordinates of
28 the home detainee. A law enforcement department that does not
29 have the primary responsibility to supervise participants in the
30 electronic monitoring program that receives information pursuant
31 to this subdivision shall not use the information to conduct
32 enforcement actions based on administrative violations of the home
33 detention program. A law enforcement department that has
34 knowledge that the subject in a criminal investigation is a
35 participant in an electronic monitoring program shall make
36 reasonable efforts to notify the supervising agency prior to serving
37 a warrant or taking any law enforcement action against a participant
38 in an electronic monitoring program.

39 ~~(j)~~

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

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

16 (2) Program acceptance shall not circumvent the normal booking
17 process for sentenced offenders. All home detention program
18 participants shall be supervised.

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

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

24 (i) A provision whereby the private agency or entity agrees to
25 operate in compliance with any available standards promulgated
26 by state correctional agencies and bodies, including the Corrections
27 Standards Authority, and all statutory provisions and mandates,
28 state and county, as appropriate and applicable to the operation of
29 home detention programs and the supervision of sentenced
30 offenders in a home detention program.

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

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

1 correctional administrator to ensure compliance with requirements
2 set by the board of supervisors and for adjustment of the financial
3 responsibility requirements if warranted by caseload changes or
4 other factors.

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

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

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

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

21 (E) The failure of the private agency or entity to comply with
22 statutory provisions and requirements or with the standards
23 established by the contract and with the correctional administrator
24 may be sufficient cause to terminate the contract.

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

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

34 ~~(k)~~

35 (j) For purposes of this section, "evidence of financial
36 responsibility" may include, but is not limited to, certified copies
37 of any of the following:

38 (1) A current liability insurance policy.

39 (2) A current errors and omissions insurance policy.

40 (3) A surety bond.

1 *SEC. 65. Section 1203.018 of the Penal Code is amended to*
2 *read:*

3 1203.018. (a) Notwithstanding any other law, this section shall
4 only apply to inmates being held in lieu of bail and on no other
5 basis.

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

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

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

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

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

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

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

38 (1) The participant shall remain within the interior premises of
39 ~~his or her~~ *the participant's* residence during the hours designated
40 by the correctional administrator.

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

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

13 (4) The correctional administrator in charge of the county
14 correctional facility from which the participant was released may,
15 without further order of the court, immediately retake the person
16 into custody if the electronic monitoring or supervising devices
17 are unable for any reason to properly perform their function at the
18 designated place of home detention, if the person fails to remain
19 within the place of home detention as stipulated in the ~~agreement,~~
20 ~~if the person willfully fails to pay fees to the provider of electronic~~
21 ~~home detention services, as stipulated in the agreement, subsequent~~
22 ~~to the written notification of the participant that the payment has~~
23 ~~not been received and that return to custody may result,~~ *agreement,*
24 or if the person for any other reason no longer meets the established
25 criteria under this section.

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

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

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

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

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

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

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

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

36 ~~(k)~~

37 (j) For purposes of this section, the following terms have the
38 following meanings:

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

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

4 ~~(j)~~

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

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

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

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

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

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

20 ~~(m)~~

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

27 ~~(n)~~

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

38 ~~(o)~~

39 (n) It is the intent of the Legislature that electronic monitoring
40 programs established under this section maintain the highest public

1 confidence, credibility, and public safety. In the furtherance of
2 these standards, the following shall apply:

3 (1) The correctional administrator, with the approval of the
4 board of supervisors, may administer an electronic monitoring
5 program as provided in this section pursuant to written contracts
6 with appropriate public or private agencies or entities to provide
7 specified program services. A public or private agency or entity
8 shall not operate a home detention program pursuant to this section
9 in any county without a written contract with that county's
10 correctional administrator. A public or private agency or entity
11 entering into a contract pursuant to this subdivision shall not itself
12 employ any person who is in the electronic monitoring program.

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

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

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

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

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

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

37 (iv) A provision that requires the private agency or entity to
38 provide evidence of financial responsibility, such as certificates
39 of insurance or copies of insurance policies, prior to commencing

1 any operations pursuant to the contract or at any time requested
2 by the board of supervisors or correctional administrator.

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

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

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

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

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

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

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

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

- 35 (i) A current liability insurance policy.
- 36 (ii) A current errors and omissions insurance policy.
- 37 (iii) A surety bond.

38 *SEC. 66. Section 1203.066 of the Penal Code is amended to*
39 *read:*

1 1203.066. (a) Notwithstanding Section 1203 or any other law,
2 probation shall not be granted to, nor shall the execution or
3 imposition of sentence be suspended for, nor shall a finding
4 bringing the defendant within the provisions of this section be
5 stricken pursuant to Section 1385 for, any of the following persons:

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

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

12 (3) A person who is convicted of a violation of Section 288 or
13 288.5 and who was a stranger to the child victim or befriended the
14 child victim for the purpose of committing an act in violation of
15 Section 288 or 288.5, unless the defendant honestly and reasonably
16 believed the victim was 14 years of age or older.

17 (4) A person who used a weapon during the commission of a
18 violation of Section 288 or 288.5.

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

28 (6) A person who violated Section 288 or 288.5 while
29 kidnapping the child victim in violation of Section 207, 209, or
30 209.5.

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

33 (8) A person who, in violating Section 288 or 288.5, has
34 substantial sexual conduct with a victim who is under 14 years of
35 age.

36 (9) A person who, in violating Section 288 or 288.5, used
37 obscene matter, as defined in Section 311, or matter, as defined in
38 Section 311, depicting sexual conduct, as defined in Section 311.3.

39 (b) “Substantial sexual conduct” means penetration of the vagina
40 or rectum of either the victim or the offender by the penis of the

1 other or by any foreign object, oral copulation, or masturbation of
2 either the victim or the offender.

3 (c) (1) Except for a violation of subdivision (b) of Section 288,
4 this section shall only apply if the existence of any fact required
5 in subdivision (a) is alleged in the accusatory pleading and is either
6 admitted by the defendant in open court, or found to be true by the
7 trier of fact.

8 (2) For the existence of any fact under paragraph (7) of
9 subdivision (a), the allegation must be made pursuant to this
10 section.

11 (d) (1) If a person is convicted of a violation of Section 288 or
12 288.5, and the factors listed in subdivision (a) are not pled or
13 proven, probation may be granted only if the following terms and
14 conditions are met:

15 (A) If the defendant is a member of the victim’s household, the
16 court finds that probation is in the best interest of the child victim.

17 (B) The court finds that rehabilitation of the defendant is feasible
18 and that the defendant is amenable to undergoing treatment, and
19 the defendant is placed in a recognized treatment program designed
20 to deal with child molestation immediately after the grant of
21 probation or the suspension of execution or imposition of sentence.

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

32 (D) If the defendant is not a member of the victim’s household,
33 the court shall prohibit the defendant from being placed or residing
34 within one-half mile of the child victim’s residence for the duration
35 of the probation term unless the court, on the record, states its
36 reasons for finding that this residency restriction would not serve
37 the best interests of the victim.

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

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

3 (3) The court shall order the psychiatrist or psychologist who
4 is appointed pursuant to Section 288.1 to include a consideration
5 of the factors specified in subparagraphs (A), (B), and (C) of
6 paragraph (1) in making ~~his or her~~ *their* report to the court.

7 (4) The court shall order the defendant to comply with all
8 probation requirements, including the requirements to attend
9 ~~counseling, counseling and~~ keep all program appointments, and
10 ~~pay program fees based upon ability to pay.~~ *appointments.*

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

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

15 (1) "Contact with the victim" includes all physical contact, being
16 in the presence of the victim, communicating by any means,
17 including by a third party acting on behalf of the defendant, or
18 sending any gifts.

19 (2) "Recognized treatment program" means a program that
20 consists of the following components:

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

22 (B) A treatment regimen designed to specifically address the
23 offense.

24 (C) The ability to serve indigent clients.

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

36 *SEC. 67. Section 1203.067 of the Penal Code is amended to*
37 *read:*

38 1203.067. (a) Notwithstanding any other law, before probation
39 may be granted to any person convicted of a felony specified in
40 Section 261, 262, 264.1, 286, 287, 288, 288.5, or 289, or former

1 Section 288a, who is eligible for probation, the court shall do all
2 of the following:

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

5 (2) Conduct a hearing at the time of sentencing to determine if
6 probation of the defendant would pose a threat to the victim. The
7 victim shall be notified of the hearing by the prosecuting attorney
8 and given an opportunity to address the court.

9 (3) Order any psychiatrist or psychologist appointed pursuant
10 to Section 288.1 to include a consideration of the threat to the
11 victim and the defendant's potential for positive response to
12 treatment in making ~~his or her~~ *their* report to the court. Nothing
13 in this section shall be construed to require the court to order an
14 examination of the victim.

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

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

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

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

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

7 ~~(e) Any defendant ordered to be placed in an approved sex
8 offender management program pursuant to subdivision (b) shall
9 be responsible for paying the expense of his or her participation
10 in the program as determined by the court. The court shall take
11 into consideration the ability of the defendant to pay, and no
12 defendant shall be denied probation because of his or her inability
13 to pay.~~

14 *SEC. 68. Section 1203.097 of the Penal Code is amended to*
15 *read:*

16 1203.097. (a) If a person is granted probation for a crime in
17 which the victim is a person defined in Section 6211 of the Family
18 Code, the terms of probation shall include all of the following:

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

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

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

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

28 ~~(5) (A) A minimum payment by the defendant of a fee of five
29 hundred dollars (\$500) to be disbursed as specified in this
30 paragraph. If, after a hearing in open court, the court finds that the
31 defendant does not have the ability to pay, the court may reduce
32 or waive this fee. If the court exercises its discretion to reduce or
33 waive the fee, it shall state the reason on the record.~~

34 ~~(B) Two-thirds of the moneys deposited with the county
35 treasurer pursuant to this section shall be retained by counties and
36 deposited in the domestic violence programs special fund created
37 pursuant to Section 18305 of the Welfare and Institutions Code,
38 to be expended for the purposes of Chapter 5 (commencing with
39 Section 18290) of Part 6 of Division 9 of the Welfare and
40 Institutions Code. Of the moneys deposited in the domestic~~

1 violence programs special fund, no more than 8 percent may be
2 used for administrative costs, as specified in Section 18305 of the
3 Welfare and Institutions Code.

4 (C) The remaining one-third of the moneys shall be transferred,
5 once a month, to the Controller for deposit in equal amounts in
6 the Domestic Violence Restraining Order Reimbursement Fund
7 and in the Domestic Violence Training and Education Fund, which
8 are hereby created, in an amount equal to one-third of funds
9 collected during the preceding month. Moneys deposited into these
10 funds pursuant to this section shall be available upon appropriation
11 by the Legislature and shall be distributed each fiscal year as
12 follows:

13 (i) Funds from the Domestic Violence Restraining Order
14 Reimbursement Fund shall be distributed to local law enforcement
15 or other criminal justice agencies for state-mandated local costs
16 resulting from the notification requirements set forth in subdivision
17 (b) of Section 6380 of the Family Code, based on the annual
18 notification from the Department of Justice of the number of
19 restraining orders issued and registered in the state domestic
20 violence restraining order registry maintained by the Department
21 of Justice, for the development and maintenance of the domestic
22 violence restraining order databank system.

23 (ii) Funds from the Domestic Violence Training and Education
24 Fund shall support a statewide training and education program to
25 increase public awareness of domestic violence and to improve
26 the scope and quality of services provided to the victims of
27 domestic violence. Grants to support this program shall be awarded
28 on a competitive basis and be administered by the State Department
29 of Public Health, in consultation with the statewide domestic
30 violence coalition, which is eligible to receive funding under this
31 section.

32 (D) The fee imposed by this paragraph shall be treated as a fee,
33 not as a fine, and shall not be subject to reduction for time served
34 as provided pursuant to Section 1205 or 2900.5.

35 (E) The fee imposed by this paragraph may be collected by the
36 collecting agency, or the agency's designee, after the termination
37 of the period of probation, whether probation is terminated by
38 revocation or by completion of the term.

39 (6)

1 (5) Successful completion of a batterer’s program, as defined
2 in subdivision (c), or if none is available, another appropriate
3 counseling program designated by the court, for a period not less
4 than one year with periodic progress reports by the program to the
5 court every three months or less and weekly sessions of a minimum
6 of two ~~hours~~ *hours*’ class time duration. The defendant shall attend
7 consecutive weekly sessions, unless granted an excused absence
8 for good cause by the program for no more than three individual
9 sessions during the entire program, and shall complete the program
10 within 18 months, unless, after a hearing, the court finds good
11 cause to modify the requirements of consecutive attendance or
12 completion within 18 months.

13 ~~(7)~~

14 (6) (A) ~~(i)~~—The court shall order the defendant to comply with
15 all probation requirements, including the requirements to attend
16 ~~counseling, counseling and keep all program appointments, and~~
17 ~~pay program fees based upon the ability to pay.~~ *appointments.*

18 ~~(ii)~~—~~The terms of probation for offenders shall not be lifted until~~
19 ~~all reasonable fees due to the counseling program have been paid~~
20 ~~in full, but in no case shall probation be extended beyond the term~~
21 ~~provided in subdivision (a) of Section 1203.1. If the court finds~~
22 ~~that the defendant does not have the ability to pay the fees based~~
23 ~~on the defendant’s changed circumstances, the court may reduce~~
24 ~~or waive the fees.~~

25 (B) Upon request by the batterer’s program, the court shall
26 provide the defendant’s arrest report, prior incidents of violence,
27 and treatment history to the program.

28 ~~(8)~~

29 (7) The court also shall order the defendant to perform a
30 specified amount of appropriate community service, as designated
31 by the court. The defendant shall present the court with proof of
32 completion of community service and the court shall determine if
33 the community service has been satisfactorily completed. If
34 sufficient staff and resources are available, the community service
35 shall be performed under the jurisdiction of the local agency
36 overseeing a community service program.

37 ~~(9)~~

38 (8) If the program finds that the defendant is unsuitable, the
39 program shall immediately contact the probation department or
40 the court. The probation department or court shall either recalendar

1 the case for hearing or refer the defendant to an appropriate
2 alternative batterer's program.

3 ~~(10)~~

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

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

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

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

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

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

24 (vi) The defendant has made threats to harm anyone in any
25 manner.

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

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

31 (B) The program shall immediately report any violation of the
32 terms of the protective order, including any new acts of violence
33 or failure to comply with the program requirements, to the court,
34 the prosecutor, and, if formal probation has been ordered, to the
35 probation department. The probationer shall file proof of
36 enrollment in a batterer's program with the court within 30 days
37 of conviction.

38 (C) Concurrent with other requirements under this section, in
39 addition to, and not in lieu of, the batterer's program, and unless
40 prohibited by the referring court, the probation department or the

1 court may make provisions for a defendant to use ~~his or her~~ *the*
2 *defendant's* resources to enroll in a chemical dependency program
3 or to enter voluntarily a licensed chemical dependency recovery
4 hospital or residential treatment program that has a valid license
5 issued by the state to provide alcohol or drug services to receive
6 program participation credit, as determined by the court. The
7 probation department shall document evidence of this hospital or
8 residential treatment participation in the defendant's program file.

9 ~~(11) The conditions of probation may include, in lieu of a fine,~~
10 ~~but not in lieu of the fund payment required under paragraph (5),~~
11 ~~one or more of the following requirements:~~

12 ~~(A) That the defendant make payments to a battered women's~~
13 ~~shelter, up to a maximum of five thousand dollars (\$5,000).~~

14 ~~(B) That the defendant reimburse the victim for reasonable~~
15 ~~expenses that the court finds are the direct result of the defendant's~~
16 ~~offense.~~

17 *(10) (A) The conditions may include, in lieu of a fine, the*
18 *requirement that the defendant reimburse the victim for reasonable*
19 *expenses that the court finds are the direct result of the defendant's*
20 *offense.*

21 *(B) For any order to pay a fine, to make payments to a battered*
22 *women's shelter, fine or to pay restitution as a condition of*
23 *probation under this subdivision, the court shall make a*
24 *determination of the defendant's ability to pay. Determination of*
25 *a defendant's ability to pay may include his or her the defendant's*
26 *future earning capacity. A defendant shall bear the burden of*
27 *demonstrating lack of his or her ability to pay. Express findings*
28 *by the court as to the factors bearing on the amount of the fine*
29 *shall not be required. In no event shall any order to make payments*
30 *to a battered women's shelter be made if it would impair the ability*
31 *of the defendant to pay direct restitution to the victim or*
32 *court-ordered child support. When the injury to a married person*
33 *is caused, in whole or in part, by the criminal acts of his or her the*
34 *person's spouse in violation of this section, the community property*
35 *shall not be used to discharge the liability of the offending spouse*
36 *for restitution to the injured spouse, as required by Section 1203.04,*
37 *as operative on or before August 2, 1995, or Section 1202.4, or to*
38 *a shelter for costs with regard to the injured spouse, until all*
39 *separate property of the offending spouse is exhausted.*

40 ~~(12)~~

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

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

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

33 (2) The court shall advise the defendant that the failure to report
34 to the probation department for the initial investigation, as directed
35 by the court, or the failure to enroll in a specified program, as
36 directed by the court or the probation department, shall result in
37 possible further incarceration. The court, in the interests of justice,
38 may relieve the defendant from the prohibition set forth in this
39 subdivision based upon the defendant's mistake or excusable
40 neglect. Application for this relief shall be filed within 20 court

1 days of the missed deadline. This time limitation may not be
2 extended. A copy of any application for relief shall be served on
3 the office of the prosecuting attorney.

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

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

8 (B) Education.

9 (C) Vocational achievements.

10 (D) Criminal history.

11 (E) Medical history.

12 (F) Substance abuse history.

13 (G) Consultation with the probation officer.

14 (H) Verbal consultation with the victim, only if the victim
15 desires to participate.

16 (I) Assessment of the future probability of the defendant
17 committing murder.

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

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

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

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

37 (B) A requirement that the defendant participate in ongoing
38 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, ~~so long as the refusal is not because~~
21 ~~of the defendant's inability to pay.~~ *program.* If possible, the
22 program shall suggest an appropriate alternative program.

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

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

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

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

1 (M) Program content that provides cultural and ethnic
2 sensitivity.

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

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

9 (i) ~~Proof of enrollment, to be submitted to the court and the~~
10 ~~probation department and to include the fee determined to be~~
11 ~~charged to the defendant, based upon the ability to pay, enrollment~~
12 ~~for each session.~~

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

15 (iii) Final evaluation that includes the program's evaluation of
16 the defendant's progress, using the criteria set forth in subparagraph
17 (A) of paragraph ~~(10)~~ (9) of subdivision (a), and recommendation
18 for either successful or unsuccessful termination or continuation
19 in the program.

20 ~~(P) A sliding fee schedule based on the defendant's ability to~~
21 ~~pay. The batterer's program shall develop and utilize a sliding fee~~
22 ~~scale that recognizes both the defendant's ability to pay and the~~
23 ~~necessity of programs to meet overhead expenses. An indigent~~
24 ~~defendant may negotiate a deferred payment schedule, but shall~~
25 ~~pay a nominal fee, if the defendant has the ability to pay the~~
26 ~~nominal fee. Upon a hearing and a finding by the court that the~~
27 ~~defendant does not have the financial ability to pay the nominal~~
28 ~~fee, the court shall waive this fee. The payment of the fee shall be~~
29 ~~made a condition of probation if the court determines the defendant~~
30 ~~has the present ability to pay the fee. The fee shall be paid during~~
31 ~~the term of probation unless the program sets other conditions.~~
32 ~~The acceptance policies shall be in accordance with the sealed fee~~
33 ~~system.~~

34 (2) The court shall refer persons only to batterer's programs
35 that have been approved by the probation department pursuant to
36 paragraph (5). The probation department shall do both of the
37 following:

38 (A) Provide for the issuance of a provisional approval, provided
39 that the applicant is in substantial compliance with applicable laws
40 and regulations and an urgent need for approval exists. A

1 provisional approval shall be considered an authorization to provide
2 services and shall not be considered a vested right.

3 (B) If the probation department determines that a program is
4 not in compliance with standards set by the department, the
5 department shall provide written notice of the noncompliant areas
6 to the program. The program shall submit a written plan of
7 corrections within 14 days from the date of the written notice on
8 noncompliance. A plan of correction shall include, but not be
9 limited to, a description of each corrective action and timeframe
10 for implementation. The department shall review and approve all
11 or any part of the plan of correction and notify the program of
12 approval or disapproval in writing. If the program fails to submit
13 a plan of correction or fails to implement the approved plan of
14 correction, the department shall consider whether to revoke or
15 suspend approval and, upon revoking or suspending approval, shall
16 have the option to cease referrals of defendants under this section.

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

19 (A) The establishment of guidelines and criteria for education
20 services, including standards of services that may include lectures,
21 classes, and group discussions.

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

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

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

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

1 (5) The probation department shall have the sole authority to
2 approve a batterer's program for probation. The program shall be
3 required to obtain only one approval but shall renew that approval
4 annually.

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

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

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

16 (iii) The onsite review of the program, including monitoring of
17 a session to determine that the program adheres to applicable
18 statutes and regulations.

19 (iv) The payment of the approval fee.

20 (B) The probation department shall fix a fee for approval not
21 to exceed two hundred fifty dollars (\$250) and for approval renewal
22 not to exceed two hundred fifty dollars (\$250) every year in an
23 amount sufficient to cover its costs in administering the approval
24 process under this section. No fee shall be charged for the approval
25 of local governmental entities.

26 (C) The probation department has the sole authority to approve
27 the issuance, denial, suspension, or revocation of approval and to
28 cease new enrollments or referrals to a batterer's program under
29 this section. The probation department shall review information
30 relative to a program's performance or failure to adhere to
31 standards, or both. The probation department may suspend or
32 revoke an approval issued under this subdivision or deny an
33 application to renew an approval or to modify the terms and
34 conditions of approval, based on grounds established by probation,
35 including, but not limited to, either of the following:

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

38 (ii) Misrepresentation of any material fact in obtaining the
39 approval.

1 (6) For defendants who are chronic users or serious abusers of
2 drugs or alcohol, standard components in the program shall include
3 concurrent counseling for substance abuse and violent behavior,
4 and in appropriate cases, detoxification and abstinence from the
5 abused substance.

6 (7) The program shall conduct an exit conference that assesses
7 the defendant’s progress during ~~his or her~~ participation in the
8 batterer’s program.

9 (d) An act or omission relating to the approval of a batterer’s
10 treatment programs under paragraph (5) of subdivision (c) is a
11 discretionary act pursuant to Section 820.2 of the Government
12 Code.

13 *SEC. 69. Section 1203.1 of the Penal Code is amended to read:*

14 1203.1. (a) The court, or judge thereof, in the order granting
15 probation, may suspend the imposing or the execution of the
16 sentence and may direct that the suspension may continue for a
17 period of time not exceeding the maximum possible term of the
18 sentence, except as hereinafter set forth, and upon those terms and
19 conditions as it shall determine. The court, or judge thereof, in the
20 order granting probation and as a condition thereof, may imprison
21 the defendant in a county jail for a period not exceeding the
22 maximum time fixed by law in the case.

23 However, ~~where~~ *if* the maximum possible term of the sentence
24 is five years or less, ~~then~~ the period of suspension of imposition
25 or execution of sentence may, in the discretion of the court,
26 continue for not over five years. The following shall apply to this
27 subdivision:

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

30 (2) The court may, in connection with granting probation,
31 impose either imprisonment in a county jail or a fine, both, or
32 neither.

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

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

38 (b) The court shall consider whether the defendant as a condition
39 of probation shall make restitution to the victim or the Restitution
40 Fund. Any restitution payment received by a court or probation

1 department in the form of cash or money order shall be forwarded
2 to the victim within 30 days from the date the payment is received
3 by the department. Any restitution payment received by a court or
4 probation department in the form of a check or draft shall be
5 forwarded to the victim within 45 days from the date the payment
6 is received, provided, that payment need not be forwarded to a
7 victim until 180 days from the date the first payment is received,
8 if the restitution payments for that victim received by the court or
9 probation department total less than fifty dollars (\$50). In cases
10 where the court has ordered the defendant to pay restitution to
11 multiple victims and where the administrative cost of disbursing
12 restitution payments to multiple victims involves a significant cost,
13 any restitution payment received by a probation department shall
14 be forwarded to multiple victims when it is cost effective to do so,
15 but in no event shall restitution disbursements be delayed beyond
16 180 days from the date the payment is received by the probation
17 department.

18 (c) In counties or cities and counties where road camps, farms,
19 or other public work is available the court may place the
20 probationer in the road camp, farm, or other public work instead
21 of in jail. In this case, Section 25359 of the Government Code shall
22 apply to probation and the court shall have the same power to
23 require adult probationers to work, as prisoners confined in the
24 county jail are required to work, at public work. Each county board
25 of supervisors may fix the scale of compensation of the adult
26 probationers in that county.

27 (d) In all cases of ~~probation~~ *probation*, the court may require
28 as a condition of probation that the probationer go to work and
29 earn money for the support of ~~his or her~~ *the probationer's*
30 dependents or to pay any fine imposed or reparation condition, to
31 keep an account of ~~his or her~~ *the probationer's* earnings, to report
32 them to the probation officer and apply those earnings as directed
33 by the court.

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

39 (f) In all felony cases in which, as a condition of probation, a
40 judge of the superior court sitting by authority of law elsewhere

1 than at the county seat requires a convicted person to serve ~~his or~~
2 ~~her~~ *their* sentence at intermittent periods the sentence may be
3 served on the order of the judge at the city jail nearest to the place
4 at which the court is sitting, and the cost of ~~his or her~~ *the convicted*
5 *person's* maintenance shall be a county charge.

6 (g) (1) The court and prosecuting attorney shall consider
7 whether any defendant who has been convicted of a nonviolent or
8 nonserious offense and ordered to participate in community service
9 as a condition of probation shall be required to engage in the
10 removal of graffiti in the performance of the community service.
11 For the purpose of this subdivision, a nonserious offense shall not
12 include the following:

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

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

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

19 (D) Offenses involving annoying or molesting children.

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

25 (3) The court and the prosecuting attorney need not consider a
26 defendant pursuant to paragraph (1) if the following circumstances
27 exist:

28 (A) The defendant was convicted of any offense set forth in
29 subdivision (c) of Section 667.5 or subdivision (c) of Section
30 1192.7.

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

35 (h) The probation officer or ~~his or her~~ *the officer's* designated
36 representative shall consider whether any defendant who has been
37 convicted of a nonviolent and nonserious offense and ordered to
38 participate in community service as a condition of probation shall
39 be required to engage in the performance of house repairs or yard
40 services for senior citizens and the performance of repairs to senior

1 centers through contact with local senior service organizations in
2 the performance of the community service.

3 (i) (1) Upon conviction of any offense involving child abuse
4 or neglect, the court may require, in addition to any or all of the
5 ~~above-mentioned~~ terms of imprisonment, fine, and other reasonable
6 ~~conditions,~~ *conditions specified in this section*, that the defendant
7 shall participate in counseling or education programs, or both,
8 including, but not limited to, parent education or parenting
9 programs operated by community colleges, school districts, other
10 public agencies, or private agencies.

11 (2) Upon conviction of any sex offense subjecting the defendant
12 to the registration requirements of Section 290, the court may order
13 as a condition of probation, at the request of the victim or in the
14 court's discretion, that the defendant stay away from the victim
15 and the victim's residence or place of employment, and that the
16 defendant have no contact with the victim in person, by telephone
17 or electronic means, or by mail.

18 (j) The court may impose and require any or all of the
19 ~~above-mentioned~~ terms of imprisonment, fine, and ~~conditions,~~
20 *conditions specified in this section*, and other reasonable conditions,
21 as it may determine are fitting and proper to the end that justice
22 may be done, that amends may be made to society for the breach
23 of the law, for any injury done to any person resulting from that
24 breach, and generally and specifically for the reformation and
25 rehabilitation of the probationer, and that should the probationer
26 violate any of the terms or conditions imposed by the court in the
27 matter, it shall have authority to modify and change any and all
28 the terms and conditions and to reimprison the probationer in the
29 county jail within the limitations of the penalty of the public
30 offense involved. Upon the defendant being released from the
31 county jail under the terms of probation as originally granted or
32 any modification subsequently made, and in all cases where
33 confinement in a county jail has not been a condition of the grant
34 of probation, the court shall place the defendant or probationer in
35 and under the charge of the probation officer of the court, for the
36 period or term fixed for probation. However, upon the payment
37 of any fine imposed and the fulfillment of all conditions of
38 probation, probation shall cease at the end of the term of probation,
39 or sooner, in the event of modification. In counties and cities and
40 counties in which there are facilities for taking fingerprints, those

1 of each probationer shall be taken and a record of them kept and
2 preserved.

3 (k) Notwithstanding any other provisions of law to the contrary,
4 except as provided in Section 13967, as operative on or before
5 September 28, 1994, of the Government Code and Section 13967.5
6 of the Government Code and Sections 1202.4, 1463.16, paragraph
7 (1) of subdivision (a) of Section 1463.18, and Section 1464, and
8 Section 1203.04, as operative on or before August 2, 1995, all
9 fines collected by a county probation officer in any of the courts
10 of this state, as a condition of the granting of probation or as a part
11 of the terms of probation, shall be paid into the county treasury
12 and placed in the general fund for the use and benefit of the county.

13 ~~(l) If the court orders restitution to be made to the victim, the~~
14 ~~entity collecting the restitution may add a fee to cover the actual~~
15 ~~administrative cost of collection, but not to exceed 15 percent of~~
16 ~~the total amount ordered to be paid. The amount of the fee shall~~
17 ~~be set by the board of supervisors if it is collected by the county~~
18 ~~and the fee collected shall be paid into the general fund of the~~
19 ~~county treasury for the use and benefit of the county. The amount~~
20 ~~of the fee shall be set by the court if it is collected by the court and~~
21 ~~the fee collected shall be paid into the Trial Court Operations Fund~~
22 ~~or account established by Section 77009 of the Government Code~~
23 ~~for the use and benefit of the court.~~

24 *SEC. 70. Section 1203.1a of the Penal Code is amended to*
25 *read:*

26 1203.1a. The probation officer of the county may authorize
27 the temporary removal under custody or temporary release without
28 custody of any inmate of the county jail, honor farm, or other
29 detention facility, who is confined or committed as a condition of
30 probation, after suspension of imposition of sentence or suspension
31 of execution of sentence, for purposes preparatory to ~~his the~~
32 ~~inmate's~~ return to the community, within 30 days prior to ~~his the~~
33 ~~inmate's~~ release date, if ~~he the~~ probation officer concludes that
34 ~~such an the~~ inmate is a fit subject therefor. ~~Any such temporary~~
35 ~~removal shall not be for a period of more than three days. When~~
36 ~~an inmate is released for purposes preparatory to his return to the~~
37 ~~community, the probation officer may require the inmate to~~
38 ~~reimburse the county, in whole or in part, for expenses incurred~~
39 ~~by the county in connection therewith.~~

1 *SEC. 71. Section 1203.1ab of the Penal Code is amended to*
2 *read:*

3 1203.1ab. Upon conviction of any offense involving the
4 unlawful possession, use, sale, or other furnishing of any controlled
5 substance, as defined in Chapter 2 (commencing with Section
6 11053) of Division 10 of the Health and Safety Code, in addition
7 to any or all of the terms of imprisonment, fine, and other
8 reasonable conditions specified in or permitted by Section 1203.1,
9 unless it makes a finding that this condition would not serve the
10 interests of justice, the court, when recommended by the probation
11 officer, shall require as a condition of probation that the defendant
12 shall not use or be under the influence of any controlled substance
13 and shall submit to drug and substance abuse testing as directed
14 by the probation officer. ~~If the defendant is an adult over 21 years~~
15 ~~of age and under the jurisdiction of the criminal court, is required~~
16 ~~to submit to testing, and has the financial ability to pay all or part~~
17 ~~of the costs associated with that testing, the court shall order the~~
18 ~~defendant to pay a reasonable fee, which shall not exceed the actual~~
19 ~~cost of the testing.~~

20 *SEC. 72. Section 1203.1b of the Penal Code is repealed.*

21 ~~1203.1b. (a) In any case in which a defendant is convicted of~~
22 ~~an offense and is the subject of any preplea or presentence~~
23 ~~investigation and report, whether or not probation supervision is~~
24 ~~ordered by the court, and in any case in which a defendant is~~
25 ~~granted probation, given a conditional sentence, or receives a term~~
26 ~~of mandatory supervision pursuant to subparagraph (B) of~~
27 ~~paragraph (5) of subdivision (h) of Section 1170, the probation~~
28 ~~officer, or his or her authorized representative, taking into account~~
29 ~~any amount that the defendant is ordered to pay in fines,~~
30 ~~assessments, and restitution, shall make a determination of the~~
31 ~~ability of the defendant to pay all or a portion of the reasonable~~
32 ~~cost of any probation supervision, conditional sentence, or term~~
33 ~~of mandatory supervision, of conducting any preplea investigation~~
34 ~~and preparing any preplea report pursuant to Section 1203.7, of~~
35 ~~conducting any presentence investigation and preparing any~~
36 ~~presentence report made pursuant to Section 1203, and of~~
37 ~~processing a jurisdictional transfer pursuant to Section 1203.9 or~~
38 ~~of processing a request for interstate compact supervision pursuant~~
39 ~~to Sections 11175 to 11179, inclusive, whichever applies. The~~
40 ~~reasonable cost of these services and of probation supervision, a~~

1 conditional sentence, or mandatory supervision shall not exceed
2 the amount determined to be the actual average cost thereof. A
3 payment schedule for the reimbursement of the costs of preplea
4 or presentence investigations based on income shall be developed
5 by the probation department of each county and approved by the
6 presiding judge of the superior court. The court shall order the
7 defendant to appear before the probation officer, or his or her
8 authorized representative, to make an inquiry into the ability of
9 the defendant to pay all or a portion of these costs. The probation
10 officer, or his or her authorized representative, shall determine the
11 amount of payment and the manner in which the payments shall
12 be made to the county, based upon the defendant's ability to pay.
13 The probation officer shall inform the defendant that the defendant
14 is entitled to a hearing, that includes the right to counsel, in which
15 the court shall make a determination of the defendant's ability to
16 pay and the payment amount. The defendant must waive the right
17 to a determination by the court of his or her ability to pay and the
18 payment amount by a knowing and intelligent waiver.

19 (b) ~~When the defendant fails to waive the right provided in~~
20 ~~subdivision (a) to a determination by the court of his or her ability~~
21 ~~to pay and the payment amount, the probation officer shall refer~~
22 ~~the matter to the court for the scheduling of a hearing to determine~~
23 ~~the amount of payment and the manner in which the payments~~
24 ~~shall be made. The court shall order the defendant to pay the~~
25 ~~reasonable costs if it determines that the defendant has the ability~~
26 ~~to pay those costs based on the report of the probation officer, or~~
27 ~~his or her authorized representative. The following shall apply to~~
28 ~~a hearing conducted pursuant to this subdivision:~~

29 (1) ~~At the hearing, the defendant shall be entitled to have, but~~
30 ~~shall not be limited to, the opportunity to be heard in person, to~~
31 ~~present witnesses and other documentary evidence, and to confront~~
32 ~~and cross-examine adverse witnesses, and to disclosure of the~~
33 ~~evidence against the defendant, and a written statement of the~~
34 ~~findings of the court or the probation officer, or his or her~~
35 ~~authorized representative.~~

36 (2) ~~At the hearing, if the court determines that the defendant~~
37 ~~has the ability to pay all or part of the costs, the court shall set the~~
38 ~~amount to be reimbursed and order the defendant to pay that sum~~
39 ~~to the county in the manner in which the court believes reasonable~~
40 ~~and compatible with the defendant's financial ability.~~

1 ~~(3) At the hearing, in making a determination of whether a~~
2 ~~defendant has the ability to pay, the court shall take into account~~
3 ~~the amount of any fine imposed upon the defendant and any amount~~
4 ~~the defendant has been ordered to pay in restitution.~~

5 ~~(4) When the court determines that the defendant's ability to~~
6 ~~pay is different from the determination of the probation officer,~~
7 ~~the court shall state on the record the reason for its order.~~

8 ~~(e) The court may hold additional hearings during the~~
9 ~~probationary, conditional sentence, or mandatory supervision~~
10 ~~period to review the defendant's financial ability to pay the amount,~~
11 ~~and in the manner, as set by the probation officer, or his or her~~
12 ~~authorized representative, or as set by the court pursuant to this~~
13 ~~section.~~

14 ~~(d) If practicable, the court shall order or the probation officer~~
15 ~~shall set payments pursuant to subdivisions (a) and (b) to be made~~
16 ~~on a monthly basis. Execution may be issued on the order issued~~
17 ~~pursuant to this section in the same manner as a judgment in a civil~~
18 ~~action. The order to pay all or part of the costs shall not be enforced~~
19 ~~by contempt.~~

20 ~~(e) The term "ability to pay" means the overall capability of the~~
21 ~~defendant to reimburse the costs, or a portion of the costs, of~~
22 ~~conducting the presentence investigation, preparing the preplea or~~
23 ~~presentence report, processing a jurisdictional transfer pursuant to~~
24 ~~Section 1203.9, processing requests for interstate compact~~
25 ~~supervision pursuant to Sections 11175 to 11179, inclusive, and~~
26 ~~probation supervision, conditional sentence, or mandatory~~
27 ~~supervision, and shall include, but shall not be limited to, the~~
28 ~~defendant's:~~

29 ~~(1) Present financial position.~~

30 ~~(2) Reasonably discernible future financial position. In no event~~
31 ~~shall the court consider a period of more than one year from the~~
32 ~~date of the hearing for purposes of determining reasonably~~
33 ~~discernible future financial position.~~

34 ~~(3) Likelihood that the defendant shall be able to obtain~~
35 ~~employment within the one-year period from the date of the~~
36 ~~hearing.~~

37 ~~(4) Any other factor or factors that may bear upon the~~
38 ~~defendant's financial capability to reimburse the county for the~~
39 ~~costs.~~

1 (f) ~~At any time during the pendency of the judgment rendered~~
2 ~~according to the terms of this section, a defendant against whom~~
3 ~~a judgment has been rendered may petition the probation officer~~
4 ~~for a review of the defendant's financial ability to pay or the~~
5 ~~rendering court to modify or vacate its previous judgment on the~~
6 ~~grounds of a change of circumstances with regard to the~~
7 ~~defendant's ability to pay the judgment. The probation officer and~~
8 ~~the court shall advise the defendant of this right at the time of~~
9 ~~rendering of the terms of probation or the judgment.~~

10 (g) ~~All sums paid by a defendant pursuant to this section shall~~
11 ~~be allocated for the operating expenses of the county probation~~
12 ~~department.~~

13 (h) ~~The board of supervisors in any county, by resolution, may~~
14 ~~establish a fee for the processing of payments made in installments~~
15 ~~to the probation department pursuant to this section, not to exceed~~
16 ~~the administrative and clerical costs of the collection of those~~
17 ~~installment payments as determined by the board of supervisors,~~
18 ~~except that the fee shall not exceed seventy-five dollars (\$75).~~

19 (i) ~~This section shall be operative in a county upon the adoption~~
20 ~~of an ordinance to that effect by the board of supervisors.~~

21 *SEC. 73. Section 1203.1bb of the Penal Code is repealed.*

22 ~~1203.1bb. (a) The reasonable cost of probation determined~~
23 ~~under subdivision (a) of Section 1203.1b shall include the cost of~~
24 ~~purchasing and installing an ignition interlock device pursuant to~~
25 ~~Section 13386 of the Vehicle Code. Any defendant subject to this~~
26 ~~section shall pay the manufacturer of the ignition interlock device~~
27 ~~directly for the cost of its purchase and installation, in accordance~~
28 ~~with the payment schedule ordered by the court. If practicable, the~~
29 ~~court shall order payment to be made to the manufacturer of the~~
30 ~~ignition interlock device within a six-month period.~~

31 (b) ~~This section does not require any county to pay the costs of~~
32 ~~purchasing and installing any ignition interlock devices ordered~~
33 ~~pursuant to Section 13386 of the Vehicle Code. The Office of~~
34 ~~Traffic Safety shall consult with the presiding judge or his or her~~
35 ~~designee in each county to determine an appropriate means, if any,~~
36 ~~to provide for installation of ignition interlock devices in cases in~~
37 ~~which the defendant has no ability to pay.~~

38 *SEC. 74. Section 1203.1c of the Penal Code is repealed.*

39 ~~1203.1c. (a) In any case in which a defendant is convicted of~~
40 ~~an offense and is ordered to serve a period of confinement in a~~

1 county jail, city jail, or other local detention facility as a term of
2 probation or a conditional sentence, the court may, after a hearing,
3 make a determination of the ability of the defendant to pay all or
4 a portion of the reasonable costs of such incarceration, including
5 incarceration pending disposition of the case. The reasonable cost
6 of such incarceration shall not exceed the amount determined by
7 the board of supervisors, with respect to the county jail, and by
8 the city council, with respect to the city jail, to be the actual average
9 cost thereof on a per-day basis. The court may, in its discretion,
10 hold additional hearings during the probationary period. The court
11 may, in its discretion before such hearing, order the defendant to
12 file a statement setting forth his or her assets, liability and income,
13 under penalty of perjury, and may order the defendant to appear
14 before a county officer designated by the board of supervisors to
15 make an inquiry into the ability of the defendant to pay all or a
16 portion of such costs. At the hearing, the defendant shall be entitled
17 to have the opportunity to be heard in person or to be represented
18 by counsel, to present witnesses and other evidence, and to confront
19 and cross-examine adverse witnesses. A defendant represented by
20 counsel appointed by the court in the criminal proceedings shall
21 be entitled to such representation at any hearing held pursuant to
22 this section. If the court determines that the defendant has the
23 ability to pay all or a part of the costs, the court may set the amount
24 to be reimbursed and order the defendant to pay that sum to the
25 county, or to the city with respect to incarceration in the city jail,
26 in the manner in which the court believes reasonable and
27 compatible with the defendant's financial ability. Execution may
28 be issued on the order in the same manner as on a judgment in a
29 civil action. The order to pay all or part of the costs shall not be
30 enforced by contempt.

31 If practicable, the court shall order payments to be made on a
32 monthly basis and the payments shall be made payable to the
33 county officer designated by the board of supervisors, or to a city
34 officer designated by the city council with respect to incarceration
35 in the city jail.

36 A payment schedule for reimbursement of the costs of
37 incarceration pursuant to this section based upon income shall be
38 developed by the county officer designated by the board of
39 supervisors, or by the city council with respect to incarceration in

1 the city jail, and approved by the presiding judge of the superior
2 court in the county.

3 (b) “Ability to pay” means the overall capability of the defendant
4 to reimburse the costs, or a portion of the costs, of incarceration
5 and includes, but is not limited to, the defendant’s:

6 (1) Present financial obligations, including family support
7 obligations, and fines, penalties and other obligations to the court.

8 (2) Reasonably discernible future financial position. In no event
9 shall the court consider a period of more than one year from the
10 date of the hearing for purposes of determining reasonable
11 discernible future position.

12 (3) Likelihood that the defendant shall be able to obtain
13 employment within the one-year period from the date of the
14 hearing.

15 (4) Any other factor or factors which may bear upon the
16 defendant’s financial ability to reimburse the county or city for
17 the costs.

18 (e) All sums paid by a defendant pursuant to this section shall
19 be deposited in the general fund of the county or city.

20 (d) This section shall be operative in a county upon the adoption
21 of an ordinance to that effect by the board of supervisors, and shall
22 be operative in a city upon the adoption of an ordinance to that
23 effect by the city council. Such ordinance shall include a
24 designation of the officer responsible for collection of moneys
25 ordered pursuant to this section and shall include a determination,
26 to be reviewed annually, of the average per-day costs of
27 incarceration in the county jail, city jail, or other local detention
28 facility.

29 *SEC. 75. Section 1203.1d of the Penal Code is amended to*
30 *read:*

31 1203.1d. (a) In determining the amount and manner of
32 disbursement under an order made pursuant to this code requiring
33 a defendant to make reparation or restitution to a victim of a crime,
34 to pay any money as reimbursement for legal assistance provided
35 by the court, to pay any cost of probation or probation
36 investigation, to pay any cost of jail or other confinement, *crime*
37 or to pay any other reimbursable costs, the court, after determining
38 the amount of any fine and penalty assessments, and a county
39 financial evaluation officer when making a financial evaluation,
40 shall first determine the amount of restitution to be ordered paid

1 to any victim, and shall ~~then~~ determine the amount of the other
2 reimbursable costs.

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

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

7 (b) With respect to installment payments and amounts collected
8 by the Franchise Tax Board pursuant to Section 19280 of the
9 Revenue and Taxation Code and subsequently transferred by the
10 Controller pursuant to Section 19282 of the Revenue and Taxation
11 Code, the board of supervisors shall provide that disbursements
12 be made in the following order of priority:

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

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

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

20 (4) Any other reimbursable costs.

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

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

29 ~~(e) This section shall become operative on January 1, 2012.~~

30 *SEC. 76. Section 1203.1e of the Penal Code is repealed.*

31 ~~1203.1e. (a) In any case in which a defendant is ordered to~~
32 ~~serve a period of confinement in a county jail or other local~~
33 ~~detention facility, and the defendant is eligible to be released on~~
34 ~~parole by the county board of parole commissioners, the court~~
35 ~~shall, after a hearing, make a determination of the ability of the~~
36 ~~person to pay all or a portion of the reasonable cost of providing~~
37 ~~parole supervision. The reasonable cost of those services shall not~~
38 ~~exceed the amount determined to be the actual average cost of~~
39 ~~providing parole supervision.~~

1 ~~(b) If the court determines that the person has the ability to pay~~
2 ~~all or part of the costs, the court may set the amount to be~~
3 ~~reimbursed and order the person to pay that sum to the county in~~
4 ~~the manner in which the court believes reasonable and compatible~~
5 ~~with the person's financial ability. In making a determination of~~
6 ~~whether a person has the ability to pay, the court shall take into~~
7 ~~account the amount of any fine imposed upon the person and any~~
8 ~~amount the person has been ordered to pay in restitution.~~

9 ~~If practicable, the court shall order payments to be made on a~~
10 ~~monthly basis as directed by the court. Execution may be issued~~
11 ~~on the order in the same manner as a judgment in a civil action.~~
12 ~~The order to pay all or part of the costs shall not be enforced by~~
13 ~~contempt.~~

14 ~~(c) For the purposes of this section, "ability to pay" means the~~
15 ~~overall capability of the person to reimburse the costs, or a portion~~
16 ~~of the costs, of providing parole supervision and shall include, but~~
17 ~~shall not be limited to, consideration of all of the following factors:~~

18 ~~(1) Present financial position.~~

19 ~~(2) Reasonably discernible future financial position. In no event~~
20 ~~shall the board consider a period of more than six months from~~
21 ~~the date of the hearing for purposes of determining reasonably~~
22 ~~discernible future financial position.~~

23 ~~(3) Likelihood that the person shall be able to obtain~~
24 ~~employment within the six-month period from the date of the~~
25 ~~hearing.~~

26 ~~(4) Any other factor or factors which may bear upon the person's~~
27 ~~financial capability to reimburse the county for the costs.~~

28 ~~(d) At any time during the pendency of the order made under~~
29 ~~this section, a person against whom an order has been made may~~
30 ~~petition the court to modify or vacate its previous order on the~~
31 ~~grounds of a change of circumstances with regard to the person's~~
32 ~~ability to pay. The court shall advise the person of this right at the~~
33 ~~time of making the order.~~

34 ~~(e) All sums paid by any person pursuant to this section shall~~
35 ~~be deposited in the general fund of the county.~~

36 ~~(f) The parole of any person shall not be denied or revoked in~~
37 ~~whole or in part based upon the inability or failure to pay under~~
38 ~~this section.~~

1 ~~(g) The county board of parole commissioners shall not have~~
2 ~~access to offender financial data prior to the rendering of any parole~~
3 ~~decision.~~

4 ~~(h) This section shall become operative on January 1, 1995.~~

5 *SEC. 77. Section 1203.1h of the Penal Code is repealed.*

6 ~~1203.1h.—(a) In addition to any other costs which a court is~~
7 ~~authorized to require a defendant to pay, upon conviction of any~~
8 ~~offense involving child abuse or neglect, the court may require~~
9 ~~that the defendant pay to a law enforcement agency incurring the~~
10 ~~cost, the cost of any medical examinations conducted on the victim~~
11 ~~in order to determine the nature or extent of the abuse or neglect.~~
12 ~~If the court determines that the defendant has the ability to pay all~~
13 ~~or part of the medical examination costs, the court may set the~~
14 ~~amount to be reimbursed and order the defendant to pay that sum~~
15 ~~to the law enforcement agency in the manner in which the court~~
16 ~~believes reasonable and compatible with the defendant's financial~~
17 ~~ability. In making a determination of whether a defendant has the~~
18 ~~ability to pay, the court shall take into account the amount of any~~
19 ~~fine imposed upon the defendant and any amount the defendant~~
20 ~~has been ordered to pay in restitution.~~

21 ~~(b) In addition to any other costs which a court is authorized to~~
22 ~~require a defendant to pay, upon conviction of any offense~~
23 ~~involving sexual assault or attempted sexual assault, including~~
24 ~~child molestation, the court may require that the defendant pay, to~~
25 ~~the law enforcement agency, county, or local governmental agency~~
26 ~~incurring the cost, the cost of any medical examinations conducted~~
27 ~~on the victim for the collection and preservation of evidence. If~~
28 ~~the court determines that the defendant has the ability to pay all~~
29 ~~or part of the cost of the medical examination, the court may set~~
30 ~~the amount to be reimbursed and order the defendant to pay that~~
31 ~~sum to the law enforcement agency, county, or local governmental~~
32 ~~agency, in the manner in which the court believes reasonable and~~
33 ~~compatible with the defendant's financial ability. In making the~~
34 ~~determination of whether a defendant has the ability to pay, the~~
35 ~~court shall take into account the amount of any fine imposed upon~~
36 ~~the defendant and any amount the defendant has been ordered to~~
37 ~~pay in restitution. In no event shall a court penalize an indigent~~
38 ~~defendant by imposing an additional period of imprisonment in~~
39 ~~lieu of payment.~~

1 *SEC. 78. Section 1203.1i of the Penal Code is amended to*
2 *read:*

3 1203.1i. (a) In any case in which a defendant is convicted of
4 a violation of any building standards adopted by a local entity by
5 ordinance or resolution, including, but not limited to, local health,
6 fire, building, or safety ordinances or resolutions, or any other
7 ordinance or resolution relating to the health and safety of
8 occupants of buildings, by maintaining a substandard building, as
9 specified in Section 17920.3 of the Health and Safety Code, the
10 court, or judge thereof, in making an order granting probation, in
11 addition to any other orders, may order the defendant placed under
12 house confinement, or may order the defendant to serve both a
13 term of imprisonment in the county jail and to be placed under
14 house confinement.

15 This section only applies to violations involving a dwelling unit
16 occupied by persons specified in subdivision (a) of Section 1940
17 of the Civil Code who are not excluded by subdivision (b) of that
18 section.

19 ~~(b) If the court orders a defendant to serve all or part of his or~~
20 ~~her sentence under house confinement, pursuant to subdivision~~
21 ~~(a), he or she may also be ordered to pay the cost of having a police~~
22 ~~officer or guard stand guard outside the area in which the defendant~~
23 ~~has been confined under house confinement if it has been~~
24 ~~determined that the defendant is able to pay these costs.~~

25 (e)

26 (b) As used in this section, “house confinement” means
27 confinement to a residence or location designated by the court and
28 specified in the probation order.

29 *SEC. 79. Section 1203.1m of the Penal Code is repealed.*

30 ~~1203.1m. (a) If a defendant is convicted of an offense and~~
31 ~~ordered to serve a period of imprisonment in the state prison, the~~
32 ~~court may, after a hearing, make a determination of the ability of~~
33 ~~the defendant to pay all or a portion of the reasonable costs of the~~
34 ~~imprisonment. The reasonable costs of imprisonment shall not~~
35 ~~exceed the amount determined by the Director of Corrections to~~
36 ~~be the actual average cost of imprisonment in the state prison on~~
37 ~~a per-day basis.~~

38 ~~(b) The court may, in its discretion before any hearing, order~~
39 ~~the defendant to file a statement setting forth his or her assets,~~
40 ~~liability, and income, under penalty of perjury. At the hearing, the~~

1 ~~defendant shall have the opportunity to be heard in person or~~
2 ~~through counsel, to present witnesses and other evidence, and to~~
3 ~~confront and cross-examine adverse witnesses. A defendant who~~
4 ~~is represented by counsel appointed by the court in the criminal~~
5 ~~proceedings shall be entitled to representation at any hearing held~~
6 ~~pursuant to this section. If the court determines that the defendant~~
7 ~~has the ability to pay all or a part of the costs, the court shall set~~
8 ~~the amount to be reimbursed and order the defendant to pay that~~
9 ~~sum to the Department of Corrections for deposit in the General~~
10 ~~Fund in the manner in which the court believes reasonable and~~
11 ~~compatible with the defendant's financial ability. Execution may~~
12 ~~be issued on the order in the same manner as on a judgment in a~~
13 ~~civil action. The order to pay all or part of the costs shall not be~~
14 ~~enforced by contempt.~~

15 ~~(e) At any time during the pendency of an order made under~~
16 ~~this section, a person against whom the order has been made may~~
17 ~~petition the court to modify or vacate its previous order on the~~
18 ~~grounds of a change of circumstances with regard to the person's~~
19 ~~ability to pay. The court shall advise the person of this right at the~~
20 ~~time of making the order.~~

21 ~~(d) If the amount paid by the defendant for imprisonment~~
22 ~~exceeds the actual average cost of the term of imprisonment~~
23 ~~actually served by the defendant, the amount paid by the defendant~~
24 ~~in excess of the actual average cost shall be returned to the~~
25 ~~defendant within 60 days of his or her release from the state prison.~~

26 ~~(e) For the purposes of this section, in determining a defendant's~~
27 ~~ability to pay, the court shall consider the overall ability of the~~
28 ~~defendant to reimburse all or a portion of the costs of imprisonment~~
29 ~~in light of the defendant's present and foreseeable financial~~
30 ~~obligations, including family support obligations, restitution to the~~
31 ~~victim, and fines, penalties, and other obligations to the court, all~~
32 ~~of which shall take precedence over a reimbursement order made~~
33 ~~pursuant to this section.~~

34 ~~(f) For the purposes of this section, in determining a defendant's~~
35 ~~ability to pay, the court shall not consider the following:~~

36 ~~(1) The personal residence of the defendant, if any, up to a~~
37 ~~maximum amount of the median home sales price in the county~~
38 ~~in which the residence is located.~~

39 ~~(2) The personal motor vehicle of the defendant, if any, up to~~
40 ~~a maximum amount of ten thousand dollars (\$10,000).~~

1 ~~(3) Any other assets of the defendant up to a maximum amount~~
2 ~~of the median annual income in California.~~

3 *SEC. 80. Section 1203.4 of the Penal Code is amended to read:*

4 1203.4. (a) (1) ~~In any case in which~~ *If* a defendant has fulfilled
5 the conditions of probation for the entire period of probation, or
6 has been discharged prior to the termination of the period of
7 probation, or in any other case in which a court, in its discretion
8 and the interests of justice, determines that a defendant should be
9 granted the relief available under this section, the defendant shall,
10 at any time after the termination of the period of probation, ~~if he~~
11 ~~or she~~ *the defendant* is not then serving a sentence for any offense,
12 on probation for any offense, or charged with the commission of
13 any offense, be permitted by the court to withdraw ~~his or her~~ *the*
14 plea of guilty or plea of nolo contendere and enter a plea of not
15 ~~guilty; or, if he or she~~ *guilty, or if the defendant* has been convicted
16 after a plea of not guilty, the court shall set aside the verdict of
17 ~~guilty; and, in either case, the court shall thereupon~~ *guilty and*
18 dismiss the accusations or information against the defendant and
19 except as noted below, ~~he or she~~ *the defendant* shall thereafter be
20 released from all penalties and disabilities resulting from the
21 offense of which ~~he or she~~ *the defendant* has been convicted, except
22 as provided in Section 13555 of the Vehicle Code. The probationer
23 shall be informed, in ~~his or her~~ *the* probation papers, of this right
24 and privilege and ~~his or her~~ *the* right, if any, to petition for a
25 certificate of rehabilitation and pardon. The probationer may make
26 the application and change of plea in person or by attorney, or by
27 the probation officer authorized in writing. However, in any
28 subsequent prosecution of the defendant for any other offense, the
29 prior conviction may be pleaded and proved and shall have the
30 same effect as if probation had not been granted or the accusation
31 or information dismissed. The order shall state, and the probationer
32 shall be informed, that the order does not relieve ~~him or her~~ *the*
33 *probationer* of the obligation to disclose the conviction in response
34 to any direct question contained in any questionnaire or application
35 for public office, for licensure by any state or local agency, or for
36 contracting with the California State Lottery Commission.

37 (2) Dismissal of an accusation or information pursuant to this
38 section does not permit a person to own, possess, or have in ~~his or~~
39 ~~her~~ *the person's* custody or control any firearm or prevent ~~his or~~

1 her *the person's* conviction under Chapter 2 (commencing with
2 Section 29800) of Division 9 of Title 4 of Part 6.

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

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

9 (b) Subdivision (a) of this section does not apply to any
10 misdemeanor that is within the provisions of Section 42002.1 of
11 the Vehicle Code, to any violation of subdivision (c) of Section
12 286, Section 288, subdivision (c) of Section 287 or of former
13 Section 288a, Section 288.5, subdivision (j) of Section 289, Section
14 311.1, 311.2, 311.3, or 311.11, or any felony conviction pursuant
15 to subdivision (d) of Section 261.5, or to any infraction.

16 (c) (1) Except as provided in paragraph (2), subdivision (a)
17 does not apply to a person who receives a notice to appear or is
18 otherwise charged with a violation of an offense described in
19 subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle
20 Code.

21 (2) If a defendant who was convicted of a violation listed in
22 paragraph (1) petitions the court, the court in its discretion and in
23 the interests of justice, may order the relief provided pursuant to
24 subdivision (a) to that defendant.

25 ~~(d) A person who petitions for a change of plea or setting aside
26 of a verdict under this section may be required to reimburse the
27 court for the actual costs of services rendered, whether or not the
28 petition is granted and the records are sealed or expunged, at a rate
29 to be determined by the court not to exceed one hundred fifty
30 dollars (\$150), and to reimburse the county for the actual costs of
31 services rendered, whether or not the petition is granted and the
32 records are sealed or expunged, at a rate to be determined by the
33 county board of supervisors not to exceed one hundred fifty dollars
34 (\$150), and to reimburse any city for the actual costs of services
35 rendered, whether or not the petition is granted and the records are
36 sealed or expunged, at a rate to be determined by the city council
37 not to exceed one hundred fifty dollars (\$150). Ability to make
38 this reimbursement shall be determined by the court using the
39 standards set forth in paragraph (2) of subdivision (g) of Section
40 987.8 and shall not be a prerequisite to a person's eligibility under~~

1 ~~this section. The court may order reimbursement in any case in~~
 2 ~~which the petitioner appears to have the ability to pay, without~~
 3 ~~undue hardship, all or any portion of the costs for services~~
 4 ~~established pursuant to this subdivision.~~

5 ~~(e)~~

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

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

12 ~~(f)~~

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

17 ~~(g)~~

18 (f) Notwithstanding the above provisions or any other provision
 19 of law, the Governor shall have the right to pardon a person
 20 convicted of a violation of subdivision (c) of Section 286, Section
 21 288, subdivision (c) of Section 287 or of former Section 288a,
 22 Section 288.5, or subdivision (j) of Section 289, if there are
 23 extraordinary circumstances.

24 *SEC. 81. Section 1203.4a of the Penal Code is amended to*
 25 *read:*

26 1203.4a. (a) Every defendant convicted of a misdemeanor and
 27 not granted probation, and every defendant convicted of an
 28 infraction shall, at any time after the lapse of one year from the
 29 date of pronouncement of judgment, if ~~he or she~~ *the defendant* has
 30 fully complied with and performed the sentence of the court, is
 31 not then serving a sentence for any offense and is not under charge
 32 of commission of any crime, and has, since the pronouncement of
 33 judgment, lived an honest and upright life and has conformed to
 34 and obeyed the laws of the land, be permitted by the court to
 35 withdraw ~~his or her~~ *the* plea of guilty or nolo contendere and enter
 36 a plea of not guilty; or if ~~he or she~~ *the defendant* has been convicted
 37 after a plea of not guilty, the court shall set aside the verdict of
 38 guilty; and in either case the court shall thereupon dismiss the
 39 accusatory pleading against the defendant, who shall thereafter be
 40 released from all penalties and disabilities resulting from the

1 offense of which ~~he or she~~ *the defendant* has been convicted, except
2 as provided in Chapter 3 (commencing with Section 29900) of
3 Division 9 of Title 4 of Part 6 of this code or Section 13555 of the
4 Vehicle Code.

5 (b) If a defendant does not satisfy all the requirements of
6 subdivision (a), after a lapse of one year from the date of
7 pronouncement of judgment, a court, in its discretion and in the
8 interests of justice, may grant the relief available pursuant to
9 subdivision (a) to a defendant convicted of an infraction, or of a
10 misdemeanor and not granted probation, or both, if ~~he or she~~ *the*
11 *defendant* has fully complied with and performed the sentence of
12 the court, is not then serving a sentence for any offense, and is not
13 under charge of commission of any crime.

14 (c) (1) The defendant shall be informed of the provisions of
15 this section, either orally or in writing, at the time ~~he or she~~ *the*
16 *defendant* is sentenced. The defendant may make an application
17 and change of plea in person or by attorney, or by the probation
18 officer authorized in writing, provided that, in any subsequent
19 prosecution of the defendant for any other offense, the prior
20 conviction may be pleaded and proved and shall have the same
21 effect as if relief had not been granted pursuant to this section.

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

27 (3) Dismissal of an accusatory pleading underlying a conviction
28 pursuant to this section does not permit a person prohibited from
29 holding public office as a result of that conviction to hold public
30 office.

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

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

36 (2) Any misdemeanor falling within the provisions of Section
37 42002.1 of the Vehicle Code.

38 (3) Any infraction falling within the provisions of Section 42001
39 of the Vehicle Code.

1 ~~(e) A person who petitions for a dismissal of a charge under~~
 2 ~~this section may be required to reimburse the county and the court~~
 3 ~~for the cost of services rendered at a rate to be determined by the~~
 4 ~~county board of supervisors for the county and by the court for the~~
 5 ~~court, not to exceed sixty dollars (\$60), and to reimburse any city~~
 6 ~~for the cost of services rendered at a rate to be determined by the~~
 7 ~~city council not to exceed sixty dollars (\$60). Ability to make this~~
 8 ~~reimbursement shall be determined by the court using the standards~~
 9 ~~set forth in paragraph (2) of subdivision (g) of Section 987.8 and~~
 10 ~~shall not be a prerequisite to a person's eligibility under this~~
 11 ~~section. The court may order reimbursement in any case in which~~
 12 ~~the petitioner appears to have the ability to pay, without undue~~
 13 ~~hardship, all or any portion of the cost for services established~~
 14 ~~pursuant to this subdivision:~~

15 ~~(f)~~

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

23 ~~(g)~~

24 (f) Any determination of amount made by a court under this
 25 section shall be valid only if either (1) made under procedures
 26 adopted by the Judicial Council or (2) approved by the Judicial
 27 Council.

28 *SEC. 82. Section 1203.41 of the Penal Code is amended to*
 29 *read:*

30 1203.41. (a) If a defendant is sentenced pursuant to paragraph
 31 (5) of subdivision (h) of Section 1170, the court, in its discretion
 32 and in the interests of justice, may order the following relief,
 33 subject to the conditions of subdivision (b):

34 (1) The court may permit the defendant to withdraw ~~his or her~~
 35 *the* plea of guilty or plea of nolo contendere and enter a plea of
 36 not guilty, or, if ~~he or she~~ *the defendant* has been convicted after
 37 a plea of not guilty, the court shall set aside the verdict of guilty,
 38 and, in either case, the court shall thereupon dismiss the accusations
 39 or information against the defendant and ~~he or she~~ *the defendant*
 40 shall thereafter be released from all penalties and disabilities

1 resulting from the offense of which ~~he or she~~ *the defendant* has
2 been convicted, except as provided in Section 13555 of the Vehicle
3 Code.

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

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

17 (4) The defendant shall be informed, either orally or in writing,
18 of the provisions of this section and of ~~his or her~~ *the* right, if any,
19 to petition for a certificate of rehabilitation and pardon at the time
20 ~~he or she~~ *the defendant* is sentenced.

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

24 (b) Relief granted pursuant to subdivision (a) is subject to the
25 following conditions:

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

30 (2) The order shall state, and the defendant shall be informed,
31 that the order does not relieve ~~him or her~~ *the defendant* of the
32 obligation to disclose the conviction in response to any direct
33 question contained in any questionnaire or application for public
34 office, for licensure by any state or local agency, or for contracting
35 with the California State Lottery Commission.

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

1 (4) Dismissal of an accusation or information underlying a
2 conviction pursuant to this section does not permit a person
3 prohibited from holding public office as a result of that conviction
4 to hold public office.

5 (c) This section applies to any conviction specified in
6 subdivision (a) that occurred before, on, or after January 1, 2014.

7 ~~(d) A person who petitions for a change of plea or setting aside
8 of a verdict under this section may be required to reimburse the
9 court for the actual costs of services rendered, whether or not the
10 petition is granted and the records are sealed or expunged, at a rate
11 to be determined by the court not to exceed one hundred fifty
12 dollars (\$150), and to reimburse the county for the actual costs of
13 services rendered, whether or not the petition is granted and the
14 records are sealed or expunged, at a rate to be determined by the
15 county board of supervisors not to exceed one hundred fifty dollars
16 (\$150), and to reimburse any city for the actual costs of services
17 rendered, whether or not the petition is granted and the records are
18 sealed or expunged, at a rate to be determined by the city council
19 not to exceed one hundred fifty dollars (\$150). Ability to make
20 this reimbursement shall be determined by the court using the
21 standards set forth in paragraph (2) of subdivision (g) of Section
22 987.8 and shall not be a prerequisite to a person's eligibility under
23 this section. The court may order reimbursement in any case in
24 which the petitioner appears to have the ability to pay, without
25 undue hardship, all or any portion of the costs for services
26 established pursuant to this subdivision.~~

27 (e)

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

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

34 (f)

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

39 *SEC. 83. Section 1203.42 of the Penal Code is amended to*
40 *read:*

1 1203.42. (a) If a defendant was sentenced prior to the
2 implementation of the 2011 Realignment Legislation for a crime
3 for which ~~he or she~~ *the defendant* would otherwise have been
4 eligible for sentencing pursuant to subdivision (h) of Section 1170,
5 the court, in its discretion and in the interests of justice, may order
6 the following relief, subject to the conditions of subdivision (b):

7 (1) The court may permit the defendant to withdraw ~~his or her~~
8 *the* plea of guilty or plea of nolo contendere and enter a plea of
9 not guilty, or, if ~~he or she~~ *the defendant* has been convicted after
10 a plea of not guilty, the court shall set aside the verdict of guilty,
11 and, in either case, the court shall thereupon dismiss the accusations
12 or information against the defendant and ~~he or she~~ *the defendant*
13 shall thereafter be released from all penalties and disabilities
14 resulting from the offense of which ~~he or she~~ *the defendant* has
15 been convicted, except as provided in Section 13555 of the Vehicle
16 Code.

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

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

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

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

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

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

39 (3) Dismissal of an accusation or information pursuant to this
40 section does not permit a person to own, possess, or have in ~~his or~~

1 ~~her the person's~~ custody or control any firearm or prevent ~~his or~~
2 ~~her the person's~~ conviction under Chapter 2 (commencing with
3 Section 29800) of Division 9 of Title 4 of Part 6.

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

8 ~~(e) A person who petitions for a change of plea or setting aside~~
9 ~~of a verdict under this section may be required to reimburse the~~
10 ~~court for the actual costs of services rendered, whether or not the~~
11 ~~petition is granted and the records are sealed or expunged, at a rate~~
12 ~~to be determined by the court not to exceed one hundred fifty~~
13 ~~dollars (\$150), and to reimburse the county for the actual costs of~~
14 ~~services rendered, whether or not the petition is granted and the~~
15 ~~records are sealed or expunged, at a rate to be determined by the~~
16 ~~county board of supervisors not to exceed one hundred fifty dollars~~
17 ~~(\$150), and to reimburse any city for the actual costs of services~~
18 ~~rendered, whether or not the petition is granted and the records are~~
19 ~~sealed or expunged, at a rate to be determined by the city council~~
20 ~~not to exceed one hundred fifty dollars (\$150). Ability to make~~
21 ~~this reimbursement shall be determined by the court using the~~
22 ~~standards set forth in paragraph (2) of subdivision (g) of Section~~
23 ~~987.8 and shall not be a prerequisite to a person's eligibility under~~
24 ~~this section. The court may order reimbursement in any case in~~
25 ~~which the petitioner appears to have the ability to pay, without~~
26 ~~undue hardship, all or any portion of the costs for services~~
27 ~~established pursuant to this subdivision.~~

28 ~~(d)~~

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

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

35 ~~(e)~~

36 (d) If, after receiving notice pursuant to subdivision ~~(d)~~, (c), 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 *SEC. 84. Section 1203.45 of the Penal Code is amended to*
2 *read:*

3 1203.45. (a) In a case in which a person was under 18 years
4 of age at the time of commission of a misdemeanor and is eligible
5 for, or has previously received, the relief provided by Section
6 1203.4 or 1203.4a, that person, in a proceeding under Section
7 1203.4 or 1203.4a, or a separate proceeding, may petition the court
8 for an order sealing the record of conviction and other official
9 records in the case, including records of arrests resulting in the
10 criminal proceeding and records relating to other offenses charged
11 in the accusatory pleading, whether the defendant was acquitted
12 or charges were dismissed. If the court finds that the person was
13 under 18 years of age at the time of the commission of the
14 misdemeanor, and is eligible for relief under Section 1203.4 or
15 1203.4a or has previously received that relief, it may issue its order
16 granting the relief prayed for. Thereafter the conviction, arrest, or
17 other proceeding shall be deemed not to have occurred, and the
18 petitioner may answer accordingly any question relating to their
19 occurrence.

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

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

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

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

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

35 (A) Misdemeanor violations of Chapters 1 (commencing with
36 Section 21000) to 9 (commencing with Section 22500), inclusive,
37 Chapter 12 (commencing with Section 23100), or Chapter 13
38 (commencing with Section 23250) of Division 11 of the Vehicle
39 Code, other than Section 23103, 23104, 23105, 23152, 23153, or
40 23220.

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

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

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

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

17 ~~(g) A person who is 26 years of age or older and petitions for~~
18 ~~an order sealing a record under this section may be required to~~
19 ~~reimburse the court for the actual cost of services rendered, whether~~
20 ~~or not the petition is granted and the records are sealed or~~
21 ~~expunged, at a rate to be determined by the court, not to exceed~~
22 ~~one hundred fifty dollars (\$150), and to reimburse the county for~~
23 ~~the actual cost of services rendered, whether or not the petition is~~
24 ~~granted and the records are sealed or expunged, at a rate to be~~
25 ~~determined by the county board of supervisors, not to exceed one~~
26 ~~hundred fifty dollars (\$150), and to reimburse any city for the~~
27 ~~actual cost of services rendered, whether or not the petition is~~
28 ~~granted and the records are sealed or expunged, at a rate to be~~
29 ~~determined by the city council, not to exceed one hundred fifty~~
30 ~~dollars (\$150). Ability to make this reimbursement shall be~~
31 ~~determined by the court using the standards set forth in paragraph~~
32 ~~(2) of subdivision (g) of Section 987.8 and shall not be a~~
33 ~~prerequisite to a person's eligibility under this section. The court~~
34 ~~may order reimbursement in a case in which the petitioner appears~~
35 ~~to have the ability to pay, without undue hardship, all or any portion~~
36 ~~of the cost for services established pursuant to this subdivision.~~

37 *SEC. 85. Section 1203.9 of the Penal Code is amended to read:*

38 1203.9. (a) (1) Except as provided in paragraph (3), whenever
39 a person is released on probation or mandatory supervision, the
40 court, upon noticed motion, shall transfer the case to the superior

1 court in any other county in which the person resides permanently,
2 meaning *permanently* with the stated intention to remain for the
3 duration of probation or mandatory supervision, unless the
4 transferring court determines that the transfer would be
5 inappropriate and states its reasons on the record.

6 (2) Upon notice of the motion for transfer, the court of the
7 proposed receiving county may provide comments for the record
8 regarding the proposed transfer, following procedures set forth in
9 rules of court developed by the Judicial Council for this purpose,
10 pursuant to subdivision (f). The court and the probation department
11 shall give the matter of investigating those transfers precedence
12 over all actions or proceedings therein, except actions or
13 proceedings to which special precedence is given by law, to the
14 end that all those transfers shall be completed expeditiously.

15 (3) If victim restitution was ordered as a condition of probation
16 or mandatory supervision, the transferring court shall determine
17 the amount of restitution before the transfer unless the court finds
18 that the determination cannot be made within a reasonable time
19 from when the motion for transfer is made. If a case is transferred
20 without a determination of the amount of restitution, the
21 transferring court shall complete the determination as soon as
22 practicable. In all other aspects, except as provided in subdivisions
23 (d) and (e), the court of the receiving county shall have full
24 jurisdiction over the matter upon transfer as provided in subdivision
25 (b).

26 (b) The court of the receiving county shall accept the entire
27 jurisdiction over the case effective the date that the transferring
28 court orders the transfer.

29 (c) The order of transfer shall contain an order committing the
30 probationer or supervised person to the care and custody of the
31 probation officer of the receiving county and, if applicable, an
32 order for reimbursement of reasonable costs for processing the
33 transfer to be paid to the sending county in accordance with Section
34 ~~4203.1b~~ county. A copy of the orders and any probation reports
35 shall be transmitted to the court and probation officer of the
36 receiving county within two weeks of the finding that the person
37 does permanently reside in or has permanently moved to that
38 county, and the receiving court shall have entire jurisdiction over
39 the case, except as provided in subdivisions (d) and (e), with the

1 like power to again request transfer of the case whenever it seems
2 proper.

3 (d) (1) Notwithstanding subdivision (b) and except as provided
4 in subdivision (e), if the transferring court has ordered the
5 defendant to pay fines, fees, forfeitures, penalties, assessments, or
6 restitution, the transfer order shall require that those and any other
7 amounts ordered by the transferring court that are still unpaid at
8 the time of transfer be paid by the defendant to the collection
9 program for the transferring court for proper distribution and
10 accounting once collected.

11 (2) The receiving court and receiving county probation
12 department ~~may~~ *shall not* impose additional local fees and costs
13 as authorized, and shall notify the responsible collection program
14 for the transferring court of those changes: *costs*.

15 ~~(3) Any local fees imposed pursuant to paragraph (2) shall be~~
16 ~~paid by the defendant to the collection program for the transferring~~
17 ~~court which shall remit the additional fees and costs to the receiving~~
18 ~~court for proper accounting and distribution.~~

19 (e) (1) Upon approval of a transferring court, a receiving court
20 may elect to collect all of the court-ordered payments from a
21 defendant attributable to the case under which the defendant is
22 being supervised, provided, however, that the collection program
23 for the receiving court transmits the revenue collected to the
24 collection program for the transferring court for deposit,
25 accounting, and distribution. A collection program for the receiving
26 court shall not charge administrative fees for collections performed
27 for the collection program for the transferring court ~~without a~~
28 ~~written agreement with the other program:~~ *court*.

29 (2) A collection program for a receiving court collecting funds
30 for a collection program for a transferring court pursuant to
31 paragraph (1) shall not report revenue owed or collected on behalf
32 of the collection program for the transferring court as part of those
33 collections required to be reported annually by the court to the
34 Judicial Council.

35 (f) The Judicial Council shall promulgate rules of court for
36 procedures by which the proposed receiving county shall receive
37 notice of the motion for transfer and by which responsive
38 comments may be transmitted to the court of the transferring
39 county. The Judicial Council shall adopt rules providing factors

1 for the court’s consideration when determining the appropriateness
2 of a transfer, including, but not limited to, the following:

- 3 (1) Permanency of residence of the offender.
- 4 (2) Local programs available for the offender.
- 5 (3) Restitution orders and victim issues.
- 6 (g) The Judicial Council shall consider adoption of rules of court
7 as it deems appropriate to implement the collection, accounting,
8 and disbursement requirements of subdivisions (d) and (e).

9 *SEC. 86. Section 1205 of the Penal Code is amended to read:*

10 1205. (a) A judgment that the defendant pay a fine, with or
11 without other punishment, may also direct that ~~he or she~~ *the*
12 *defendant* be imprisoned until the fine is satisfied and may further
13 direct that the imprisonment begin at and continue after the
14 expiration of any imprisonment imposed as a part of the
15 punishment or of any other imprisonment to which the defendant
16 may have been sentenced. The judgment shall specify the term of
17 imprisonment for nonpayment of the fine, which shall not be more
18 than one day for each one hundred twenty-five dollars (\$125) of
19 the base fine, nor exceed the term for which the defendant may be
20 sentenced to imprisonment for the offense of which ~~he or she~~ *the*
21 *defendant* has been convicted. A defendant held in custody for
22 nonpayment of a fine shall be entitled to credit on the fine for each
23 day ~~he or she~~ *the defendant* is held in custody, at the rate specified
24 in the judgment. When the defendant has been convicted of a
25 misdemeanor, a judgment that the defendant pay a fine may also
26 direct that ~~he or she~~ *the defendant* pay the fine within a limited
27 time or in installments on specified dates, and that in default of
28 payment as stipulated ~~he or she~~ be imprisoned in the discretion of
29 the court either until the defaulted installment is satisfied or until
30 the fine is satisfied in full; but unless the direction is given in the
31 judgment, the fine shall be payable. If an amount of the base fine
32 is not satisfied by jail credits, or by community service, the
33 penalties and assessments imposed on the base fine shall be reduced
34 by the percentage of the base fine that was satisfied.

35 (b) Except as otherwise provided in case of fines imposed, as
36 a condition of probation, the defendant shall pay the fine to the
37 clerk of the court, or to the judge if there is no clerk, unless the
38 defendant is taken into custody for nonpayment of the fine, in
39 which event payments made while ~~he or she~~ *the defendant* is in
40 custody shall be made to the officer who holds the defendant in

1 custody, and all amounts paid shall be paid over by the officer to
2 the court that rendered the judgment. The clerk shall report to the
3 court every default in payment of a fine or any part of that fine, or
4 if there is no clerk, the court shall take notice of the default. If time
5 has been given for payment of a fine or it has been made payable
6 in installments, the court shall, upon any default in payment,
7 immediately order the arrest of the defendant and order ~~him or her~~
8 *the defendant* to show cause why ~~he or she~~ *they* should not be
9 imprisoned until the fine or installment is satisfied in full. If the
10 fine or installment is payable forthwith and it is not paid, the court
11 shall, without further proceedings, immediately commit the
12 defendant to the custody of the proper officer to be held in custody
13 until the fine or installment is satisfied in full.

14 (c) This section applies to any violation of any of the codes or
15 statutes of this state punishable by a fine or by a fine and
16 imprisonment.

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

21 ~~(e) The defendant shall pay to the clerk of the court or the~~
22 ~~collecting agency a fee for the processing of installment accounts.~~
23 ~~This fee shall equal the administrative and clerical costs, as~~
24 ~~determined by the board of supervisors, or by the court, depending~~
25 ~~on which entity administers the account. The defendant shall pay~~
26 ~~to the clerk of the court or the collecting agency the fee established~~
27 ~~for the processing of the accounts receivable that are not to be paid~~
28 ~~in installments. The fee shall equal the administrative and clerical~~
29 ~~costs, as determined by the board of supervisors, or by the court,~~
30 ~~depending on which entity administers the account, except that~~
31 ~~the fee shall not exceed thirty dollars (\$30).~~

32 (f)

33 (e) This section shall not apply to restitution fines and restitution
34 orders.

35 *SEC. 87. Section 1208 of the Penal Code is amended to read:*

36 1208. (a) (1) The provisions of this section, insofar as they
37 relate to employment, shall be operative in any county in which
38 the board of supervisors by ordinance finds, on the basis of
39 employment conditions, the state of the county jail facilities, and
40 other pertinent circumstances, that the operation of this section,

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

28 (2) Notwithstanding any other law, the board of supervisors
29 may by ordinance designate a facility for confinement of prisoners
30 classified for the work furlough program and designate the work
31 furlough administrator as the custodian of the facility. The work
32 furlough administrator may operate the work furlough facility or,
33 with the approval of the board of supervisors, administer the work
34 furlough facility pursuant to written contracts with appropriate
35 public or private agencies or private entities. No agency or private
36 entity may operate a work furlough program or facility without a
37 written contract with the work furlough administrator, and no
38 agency or private entity entering into a written contract may itself
39 employ any person who is in the work furlough program. The
40 sheriff or director of the county department of corrections, as the

1 case may be, is authorized to transfer custody of prisoners to the
2 work furlough administrator to be confined in a facility for the
3 period during which they are in the work furlough program.

4 (3) All privately operated local work furlough facilities and
5 programs shall be under the jurisdiction of, and subject to the terms
6 of a written contract entered into with, the work furlough
7 administrator. Each contract shall include, but not be limited to, a
8 provision whereby the private agency or entity agrees to operate
9 in compliance with all appropriate state and local building, zoning,
10 health, safety, and fire statutes, ordinances, and regulations and
11 the minimum jail standards for Type IV facilities as established
12 by regulations adopted by the Board of State and Community
13 ~~Corrections, and a provision whereby the private agency or entity~~
14 ~~agrees to operate in compliance with Section 1208.2, which~~
15 ~~provides that no eligible person shall be denied consideration for,~~
16 ~~or be removed from, participation in a work furlough program~~
17 ~~because of an inability to pay all or a portion of the program fees.~~
18 *Corrections.* The private agency or entity shall select and train its
19 personnel in accordance with selection and training requirements
20 adopted by the Board of State and Community Corrections as set
21 forth in Subchapter 1 (commencing with Section 100) of Chapter
22 1 of Division 1 of Title 15 of the California Code of Regulations.
23 Failure to comply with the appropriate health, safety, and fire laws
24 or minimum jail standards adopted by the board may be cause for
25 termination of the contract. Upon discovery of a failure to comply
26 with these requirements, the work furlough administrator shall
27 notify the privately operated program director that the contract
28 may be canceled if the specified deficiencies are not corrected
29 within 60 days.

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

38 (b) When a person is convicted and sentenced to the county jail,
39 or is imprisoned in the county jail for nonpayment of a fine, for
40 contempt, or as a condition of probation for any criminal offense,

1 the work furlough administrator may, if ~~he or she~~ *the administrator*
2 concludes that the person is a fit subject to continue in ~~his or her~~
3 *the person's* regular employment, direct that the person be
4 permitted to continue in that employment, if that is compatible
5 with the requirements of subdivision (c), or may authorize the
6 person to secure employment for ~~himself or herself,~~ *themselves*,
7 unless the court at the time of sentencing or committing has ordered
8 that the person not be granted work furloughs. The work furlough
9 administrator may, if ~~he or she~~ *the administrator* concludes that
10 the person is a fit subject to continue in ~~his or her~~ *the person's* job
11 training program, direct that the person be permitted to continue
12 in that job training program, if that is compatible with the
13 requirements of subdivision (c), or may authorize the person to
14 secure local job training for ~~himself or herself,~~ *themselves*, unless
15 the court at the time of sentencing has ordered that person not be
16 granted work furloughs. The work furlough administrator may, if
17 ~~he or she~~ *the administrator* concludes that the person is a fit subject
18 to continue in ~~his or her~~ *the person's* regular educational program,
19 direct that the person be permitted to continue in that educational
20 program, if that is compatible with the requirements of subdivision
21 (c), or may authorize the person to secure education for ~~himself~~
22 ~~or herself,~~ *themselves*, unless the court at the time of sentencing
23 has ordered that person not be granted work furloughs.

24 (c) If the work furlough administrator so directs that the prisoner
25 be permitted to continue in ~~his or her~~ *the prisoner's* regular
26 employment, job training, or educational program, the administrator
27 shall arrange for a continuation of that employment or for that job
28 training or education, so far as possible without interruption. If the
29 prisoner does not have regular employment or a regular job training
30 or educational program, and the administrator has authorized the
31 prisoner to secure employment, job training, or education for
32 ~~himself or herself,~~ *themselves*, the prisoner may do so, and the
33 administrator may assist the prisoner in doing so. Any employment,
34 job training, or education so secured shall be suitable for the
35 prisoner. The employment, and the job training or educational
36 program if it includes earnings by the prisoner, shall be at a wage
37 at least as high as the prevailing wage for similar work in the area
38 where the work is performed and in accordance with the prevailing
39 working conditions in that area. In no event may any employment,
40 job training, or educational program involving earnings by the

1 prisoner be permitted where there is a labor dispute in the
2 establishment in which the prisoner is, or is to be, employed,
3 trained, or educated.

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

17 (2) The work furlough administrator may release any prisoner
18 classified for the work furlough program for a period not to exceed
19 72 hours for medical, dental, or psychiatric care, or for family
20 emergencies or pressing business which would result in severe
21 hardship if the release were not granted, or to attend those activities
22 as the administrator deems may effectively promote the prisoner's
23 successful return to the community, including, but not limited to,
24 an attempt to secure housing, employment, entry into educational
25 programs, or participation in community programs.

26 (e) The earnings of the prisoner may be collected by the work
27 furlough administrator, and it shall be the duty of the prisoner's
28 employer to transmit the wages to the administrator at the latter's
29 request. Earnings levied upon pursuant to writ of execution or in
30 other lawful manner shall not be transmitted to the administrator.
31 If the administrator has requested transmittal of earnings prior to
32 levy, that request shall have priority. In a case in which the
33 functions of the administrator are performed by a sheriff, and the
34 sheriff receives a writ of execution for the earnings of a prisoner
35 subject to this section but has not yet requested transmittal of the
36 prisoner's earnings pursuant to this section, the sheriff shall first
37 levy on the earnings pursuant to the writ. When an employer or
38 educator transmits earnings to the administrator pursuant to this
39 subdivision, the sheriff shall have no liability to the prisoner for
40 those earnings. From the earnings the administrator shall pay the

1 prisoner's board and personal expenses, both inside and outside
2 the jail, and shall deduct so much of the costs of administration of
3 this section as is allocable to the prisoner or if the prisoner is unable
4 to pay that sum, a lesser sum as is reasonable, and, in an amount
5 determined by the administrator, shall pay the support of the
6 prisoner's dependents, if any. If sufficient funds are available after
7 making the foregoing payments, the administrator may, with the
8 consent of the prisoner, pay, in whole or in part, the preexisting
9 debts of the prisoner. Any balance shall be retained until the
10 prisoner's discharge. Upon discharge the balance shall be paid to
11 the prisoner.

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

14 (g) If the prisoner violates the conditions laid down for ~~his or~~
15 ~~her~~ *the prisoner's* conduct, custody, job training, education, or
16 employment, the work furlough administrator may order the
17 balance of the prisoner's sentence to be spent in actual confinement.

18 (h) Willful failure of the prisoner to return to the place of
19 confinement not later than the expiration of any period during
20 which ~~he or she~~ *the prisoner* is authorized to be away from the
21 place of confinement pursuant to this section is punishable as
22 provided in Section 4532.

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

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

30 (1) "Education" includes vocational and educational training
31 and counseling, and psychological, drug abuse, alcoholic, and
32 other rehabilitative counseling.

33 (2) "Educator" includes a person or institution providing that
34 training or counseling.

35 (3) "Employment" includes care of children, including the
36 daytime care of children of the prisoner.

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

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

1 SEC. 88. Section 1208.2 of the Penal Code is amended to read:
 2 1208.2. (a) (1) This section shall apply to individuals
 3 authorized to participate in a work furlough program pursuant to
 4 Section 1208, or to individuals authorized to participate in an
 5 electronic home detention program pursuant to Section 1203.016
 6 or 1203.018, or to individuals authorized to participate in a county
 7 parole program pursuant to Article 3.5 (commencing with Section
 8 3074) of Chapter 8 of Title 1 of Part 3.

9 (2) As used in this section, as appropriate, “administrator” means
 10 the sheriff, probation officer, director of the county department of
 11 corrections, or county parole administrator.

12 (b) (1) A board of supervisors that implements programs
 13 identified in paragraph (1) of subdivision (a), ~~may prescribe (a)~~
 14 ~~shall not impose a program administrative fee and an application~~
 15 ~~fee, that together shall not exceed the pro rata cost of the program~~
 16 ~~to which the person is accepted, including equipment, supervision,~~
 17 ~~and other operating costs, except as provided in paragraphs (2)~~
 18 ~~and (3). fee.~~

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

23 ~~(3) With regard to an electronic home detention program~~
 24 ~~operated pursuant to Section 1203.016, whether or not the program~~
 25 ~~is privately operated, any administrative fee or application fee~~
 26 ~~prescribed by a board of supervisors shall only apply to adults over~~
 27 ~~21 years of age and under the jurisdiction of the criminal court.~~

28 ~~(e) The correctional administrator, or his or her designee, shall~~
 29 ~~not have access to a person’s financial data prior to granting or~~
 30 ~~denying a person’s participation in, or assigning a person to, any~~
 31 ~~of the programs governed by this section.~~

32 ~~(d) The correctional administrator, or his or her designee, shall~~
 33 ~~not consider a person’s ability or inability to pay all or a portion~~
 34 ~~of the program fee for the purposes of granting or denying a~~
 35 ~~person’s participation in, or assigning a person to, any of the~~
 36 ~~programs governed by this section.~~

37 (e) For purposes of this section, “ability to pay” means the
 38 overall capability of the person to reimburse the costs, or a portion
 39 of the costs, of providing supervision and shall include, but shall
 40 not be limited to, consideration of all of the following factors:

1 ~~(1) Present financial position.~~

2 ~~(2) Reasonably discernible future financial position. In no event~~
3 ~~shall the administrator, or his or her designee, consider a period~~
4 ~~of more than six months from the date of acceptance into the~~
5 ~~program for purposes of determining reasonably discernible future~~
6 ~~financial position.~~

7 ~~(3) Likelihood that the person shall be able to obtain~~
8 ~~employment within the six-month period from the date of~~
9 ~~acceptance into the program.~~

10 ~~(4) Any other factor that may bear upon the person's financial~~
11 ~~capability to reimburse the county for the fees fixed pursuant to~~
12 ~~subdivision (b).~~

13 ~~(f) The administrator, or his or her designee, may charge a~~
14 ~~person the fee set by the board of supervisors or any portion of the~~
15 ~~fee and may determine the method and frequency of payment. Any~~
16 ~~fee the administrator, or his or her designee, charges pursuant to~~
17 ~~this section shall not in any case be in excess of the fee set by the~~
18 ~~board of supervisors and shall be based on the person's ability to~~
19 ~~pay. The administrator, or his or her designee, shall have the option~~
20 ~~to waive the fees for program supervision when deemed necessary,~~
21 ~~justified, or in the interests of justice. The fees charged for program~~
22 ~~supervision may be modified or waived at any time based on the~~
23 ~~changing financial position of the person. All fees paid by persons~~
24 ~~for program supervision shall be deposited into the general fund~~
25 ~~of the county.~~

26 ~~(g) No person shall be denied consideration for, or be removed~~
27 ~~from, participation in any of the programs to which this section~~
28 ~~applies because of an inability to pay all or a portion of the program~~
29 ~~supervision fees. At any time during a person's sentence, the person~~
30 ~~may request that the administrator, or his or her designee, modify~~
31 ~~or suspend the payment of fees on the grounds of a change in~~
32 ~~circumstances with regard to the person's ability to pay.~~

33 ~~(h) If the person and the administrator, or his or her designee,~~
34 ~~are unable to come to an agreement regarding the person's ability~~
35 ~~to pay, or the amount that is to be paid, or the method and~~
36 ~~frequency with which payment is to be made, the administrator,~~
37 ~~or his or her designee, shall advise the appropriate court of the fact~~
38 ~~that the person and administrator, or his or her designee, have not~~
39 ~~been able to reach agreement and the court shall then resolve the~~
40 ~~disagreement by determining the person's ability to pay, the amount~~

1 that is to be paid, and the method and frequency with which
2 payment is to be made.

3 (i) ~~At the time a person is approved for any of the programs to~~
4 ~~which this section applies, the administrator, or his or her designee,~~
5 ~~shall furnish the person a written statement of the person’s rights~~
6 ~~in regard to the program for which the person has been approved,~~
7 ~~including, but not limited to, both of the following:~~

8 (1) ~~The fact that the person cannot be denied consideration for~~
9 ~~or removed from participation in the program because of an~~
10 ~~inability to pay.~~

11 (2) ~~The fact that if the person is unable to reach agreement with~~
12 ~~the administrator, or his or her designee, regarding the person’s~~
13 ~~ability to pay, the amount that is to be paid, or the manner and~~
14 ~~frequency with which payment is to be made, that the matter shall~~
15 ~~be referred to the court to resolve the differences.~~

16 (j)

17 (c) In all circumstances where a county board of supervisors
18 has approved a program administrator, as described in Section
19 1203.016, 1203.018, or 1208, to enter into a contract with a private
20 agency or entity to provide specified program services, the program
21 administrator shall ensure that the provisions of this section are
22 contained within any contractual agreement for this purpose. All
23 privately operated home detention programs shall comply with all
24 appropriate, applicable ordinances and regulations specified in
25 subdivision (a) of Section 1208.

26 *SEC. 89. Section 1208.3 of the Penal Code is amended to read:*

27 1208.3. The administrator is not prohibited by subdivision (e)
28 of Section 1208.2 from verifying any of the following:

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

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

34 (c) That the prisoner is covered under an appropriate or suitable
35 workers’ compensation insurance plan as may otherwise be
36 required by law.

37 The purpose of the verification shall be solely to insure that the
38 prisoner’s employment rights are being protected, that the prisoner
39 is not being taken advantage of, that the job is suitable for the

1 prisoner, and that the prisoner is making every reasonable effort
2 to make a productive contribution to the community.

3 *SEC. 90. Section 1209 of the Penal Code is repealed.*

4 ~~1209. Upon conviction of any criminal offense for which the
5 court orders the confinement of a person in the county jail, or other
6 suitable place of confinement, either as the final sentence or as a
7 condition of any grant of probation, and allows the person so
8 sentenced to continue in his or her regular employment by serving
9 the sentence on weekends or similar periods during the week other
10 than their regular workdays and by virtue of this schedule of
11 serving the sentence the prisoner is ineligible for work furlough
12 under Section 1208, the county may collect from the defendant
13 according to the defendant's ability to pay so much of the costs of
14 administration of this section as are allocable to such defendant.
15 The amount of this fee shall not exceed the actual costs of such
16 confinement and may be collected prior to completion of each
17 weekly or monthly period of confinement until the entire sentence
18 has been served, and the funds shall be deposited in the county
19 treasury pursuant to county ordinance.~~

20 ~~The court, upon allowing sentences to be served on weekends
21 or other nonemployment days, shall conduct a hearing to determine
22 if the defendant has the ability to pay all or a part of the costs of
23 administration without resulting in unnecessary economic hardship
24 to the defendant and his or her dependents. At the hearing, the
25 defendant shall be entitled to have, but shall not be limited to, the
26 opportunity to be heard in person, to present witnesses and other
27 documentary evidence, and to confront and cross-examine adverse
28 witnesses, and to disclosure of the evidence against the defendant,
29 and a written statement of the findings of the court. If the court
30 determines that the defendant has the ability to pay all or part of
31 the costs of administration without resulting in unnecessary
32 economic hardship to the defendant and his or her dependents, the
33 court shall advise the defendant of the provisions of this section
34 and order him or her to pay all or part of the fee as required by the
35 sheriff, probation officer, or Director of the County Department
36 of Corrections, whichever the case may be. In making a
37 determination of whether a defendant has the ability to pay, the
38 court shall take into account the amount of any fine imposed upon
39 the defendant and any amount the defendant has been ordered to
40 pay in restitution.~~

1 As used in this section, the term “ability to pay” means the
2 overall capability of the defendant to reimburse the costs, or a
3 portion of the costs, and shall include, but shall not be limited to,
4 the following:

- 5 (a) ~~The defendant’s present financial position.~~
- 6 (b) ~~The defendant’s reasonably discernible future financial~~
7 ~~position. In no event shall the court consider a period of more than~~
8 ~~six months from the date of the hearing for purposes of determining~~
9 ~~reasonably discernible future financial position.~~
- 10 (c) ~~Likelihood that the defendant shall be able to obtain~~
11 ~~employment within the six-month period from the date of the~~
12 ~~hearing.~~
- 13 (d) ~~Any other factor or factors which may bear upon the~~
14 ~~defendant’s financial capability to reimburse the county for the~~
15 ~~costs.~~

16 Execution may be issued on the order in the same manner as a
17 judgment in a civil action.

18 The order to pay all or part shall not be enforced by contempt.
19 At any time during the pendency of the judgment, a defendant
20 against whom a judgment has been rendered may petition the
21 rendering court to modify or vacate its previous judgment on the
22 grounds of a change of circumstances with regard to the
23 defendant’s ability to pay the judgment. The court shall advise the
24 defendant of this right at the time of making the judgment.

25 *SEC. 91. Section 1210.1 of the Penal Code is amended to read:*

26 1210.1. (a) Notwithstanding any other provision of law, and
27 except as provided in subdivision (b), any person convicted of a
28 nonviolent drug possession offense shall receive probation. As a
29 condition of probation the court shall require participation in and
30 completion of an appropriate drug treatment program. The court
31 shall impose appropriate drug testing as a condition of probation.
32 The court may also impose, as a condition of probation,
33 participation in vocational training, family counseling, literacy
34 ~~training and/or training, and~~ community service. A court may not
35 impose incarceration as an additional condition of probation. Aside
36 from the limitations imposed in this subdivision, the trial court is
37 not otherwise limited in the type of probation conditions it may
38 impose. Probation shall be imposed by suspending the imposition
39 of sentence. No person shall be denied the opportunity to benefit
40 from the provisions of the Substance Abuse and Crime Prevention

1 Act of 2000 based solely upon evidence of a co-occurring
2 psychiatric or developmental disorder. To the greatest extent
3 possible, any person who is convicted of, and placed on probation
4 pursuant to this section for a nonviolent drug possession offense
5 shall be monitored by the court through the use of a dedicated
6 court calendar and the incorporation of a collaborative court model
7 of oversight that includes close collaboration with treatment
8 providers and probation, drug testing commensurate with treatment
9 needs, and supervision of progress through review hearings.

10 ~~In addition to any fine assessed under other provisions of law,~~
11 ~~the trial judge may require any person convicted of a nonviolent~~
12 ~~drug possession offense who is reasonably able to do so to~~
13 ~~contribute to the cost of his or her own placement in a drug~~
14 ~~treatment program.~~

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

16 (1) Any defendant who previously has been convicted of one
17 or more violent or serious felonies as defined in subdivision (c) of
18 Section 667.5 or subdivision (c) of Section 1192.7, respectively,
19 unless the nonviolent drug possession offense occurred after a
20 period of five years in which the defendant remained free of both
21 prison custody and the commission of an offense that results in a
22 felony conviction other than a nonviolent drug possession offense,
23 or a misdemeanor conviction involving physical injury or the threat
24 of physical injury to another person.

25 (2) Any defendant who, in addition to one or more nonviolent
26 drug possession offenses, has been convicted in the same
27 proceeding of a misdemeanor not related to the use of drugs or
28 any felony.

29 (3) Any defendant who, while armed with a deadly weapon,
30 with the intent to use the same as a deadly weapon, unlawfully
31 possesses or is under the influence of any controlled substance
32 identified in Section 11054, 11055, 11056, 11057, or 11058 of the
33 Health and Safety Code.

34 (4) Any defendant who refuses drug treatment as a condition
35 of probation.

36 (5) Any defendant who has two separate convictions for
37 nonviolent drug possession offenses, has participated in two
38 separate courses of drug treatment pursuant to subdivision (a), and
39 is found by the court, by clear and convincing evidence, to be
40 unamenable to any and all forms of available drug treatment, as

1 defined in subdivision (b) of Section 1210. Notwithstanding any
2 other provision of law, the trial court shall sentence that defendant
3 to 30 days in jail.

4 (c) (1) Any defendant who has previously been convicted of
5 at least three non-drug-related felonies for which the defendant
6 has served three separate prison terms within the meaning of
7 subdivision (b) of Section 667.5 shall be presumed eligible for
8 treatment under subdivision (a). The court may exclude the
9 defendant from treatment under subdivision (a) where the court,
10 pursuant to the motion of the prosecutor or its own motion, finds
11 that the defendant poses a present danger to the safety of others
12 and would not benefit from a drug treatment program. The court
13 shall, on the record, state its findings, the reasons for those findings.

14 (2) Any defendant who has previously been convicted of a
15 misdemeanor or felony at least five times within the prior 30
16 months shall be presumed to be eligible for treatment under
17 subdivision (a). The court may exclude the defendant from
18 treatment under subdivision (a) if the court, pursuant to the motion
19 of the prosecutor, or on its own motion, finds that the defendant
20 poses a present danger to the safety of others or would not benefit
21 from a drug treatment program. The court shall, on the record,
22 state its findings and the reasons for those findings.

23 (d) Within seven days of an order imposing probation under
24 subdivision (a), the probation department shall notify the drug
25 treatment provider designated to provide drug treatment under
26 subdivision (a). Within 30 days of receiving that notice, the
27 treatment provider shall prepare a treatment plan and forward it
28 to the probation department for distribution to the court and
29 counsel. The treatment provider shall provide to the probation
30 department standardized treatment progress reports, with minimum
31 data elements as determined by the department, including all drug
32 testing results. At a minimum, the reports shall be provided to the
33 court every 90 days, or more frequently, as the court directs.

34 (1) If at any point during the course of drug treatment the
35 treatment provider notifies the probation department and the court
36 that the defendant is unamenable to the drug treatment being
37 provided, but may be amenable to other drug treatments or related
38 programs, the probation department may move the court to modify
39 the terms of probation, or on its own motion, the court may modify

1 the terms of probation after a hearing to ensure that the defendant
2 receives the alternative drug treatment or program.

3 (2) If at any point during the course of drug treatment the
4 treatment provider notifies the probation department and the court
5 that the defendant is unamenable to the drug treatment provided
6 and all other forms of drug treatment programs pursuant to
7 subdivision (b) of Section 1210, the probation department may
8 move to revoke probation. At the revocation hearing, if it is proved
9 that the defendant is unamenable to all drug treatment programs
10 pursuant to subdivision (b) of Section 1210, the court may revoke
11 probation.

12 (3) Drug treatment services provided by subdivision (a) as a
13 required condition of probation may not exceed 12 months, unless
14 the court makes a finding supported by the record, that the
15 continuation of treatment services beyond 12 months is necessary
16 for drug treatment to be successful. If that finding is made, the
17 court may order up to two six-month extensions of treatment
18 services. The provision of treatment services under the Substance
19 Abuse and Crime Prevention Act of 2000 shall not exceed 24
20 months.

21 (e) (1) At any time after completion of drug treatment and the
22 terms of probation, the court shall conduct a hearing, and if the
23 court finds that the defendant successfully completed drug
24 treatment, and substantially complied with the conditions of
25 probation, including refraining from the use of drugs after the
26 completion of treatment, the conviction on which the probation
27 was based shall be set aside and the court shall dismiss the
28 indictment, complaint, or information against the defendant. In
29 addition, except as provided in paragraphs (2) and (3), both the
30 arrest and the conviction shall be deemed never to have occurred.
31 The defendant may additionally petition the court for a dismissal
32 of charges at any time after completion of the prescribed course
33 of drug treatment. Except as provided in paragraph (2) or (3), the
34 defendant shall thereafter be released from all penalties and
35 disabilities resulting from the offense of which ~~he or she~~ *the*
36 *defendant* has been convicted.

37 (2) Dismissal of an indictment, complaint, or information
38 pursuant to paragraph (1) does not permit a person to own, possess,
39 or have in ~~his or her~~ *the person's* custody or control any firearm
40 capable of being concealed upon the person or prevent ~~his or her~~

1 *the person's* conviction under Chapter 2 (commencing with Section
2 29800) of Division 9 of Title 4 of Part 6.

3 (3) Except as provided below, after an indictment, complaint,
4 or information is dismissed pursuant to paragraph (1), the defendant
5 may indicate in response to any question concerning ~~his or her~~ *the*
6 *defendant's* prior criminal record that ~~he or she was~~ *they were* not
7 arrested or convicted for the offense. Except as provided below,
8 a record pertaining to an arrest or conviction resulting in successful
9 completion of a drug treatment program under this section may
10 not, without the defendant's consent, be used in any way that could
11 result in the denial of any employment, benefit, license, or
12 certificate.

13 Regardless of ~~his or her~~ *the defendant's* successful completion
14 of drug treatment, the arrest and conviction on which the probation
15 was based may be recorded by the Department of Justice and
16 disclosed in response to any peace officer application request or
17 any law enforcement inquiry. Dismissal of an information,
18 complaint, or indictment under this section does not relieve a
19 defendant of the obligation to disclose the arrest and conviction
20 in response to any direct question contained in any questionnaire
21 or application for public office, for a position as a peace officer as
22 defined in Section 830, for licensure by any state or local agency,
23 for contracting with the California State Lottery, or for purposes
24 of serving on a jury.

25 (f) (1) If probation is revoked pursuant to the provisions of this
26 subdivision, the defendant may be incarcerated pursuant to
27 otherwise applicable law without regard to the provisions of this
28 section. The court may modify or revoke probation if the alleged
29 violation is proved.

30 (2) If a defendant receives probation under subdivision (a), and
31 violates that probation either by committing an offense that is not
32 a nonviolent drug possession offense, or by violating a
33 non-drug-related condition of probation, and the state moves to
34 revoke probation, the court may remand the defendant for a period
35 not exceeding 30 days during which time the court may receive
36 input from treatment, probation, the state, and the defendant, and
37 the court may conduct further hearings as it deems appropriate to
38 determine whether or not probation should be reinstated under this
39 section. If the court reinstates the defendant on probation, the court
40 may modify the treatment plan and any other terms of probation,

1 and continue the defendant in a treatment program under the
2 Substance Abuse and Crime Prevention Act of 2000. If the court
3 reinstates the defendant on probation, the court may, after receiving
4 input from the treatment provider and probation, if available,
5 intensify or alter the treatment plan under subdivision (a), and
6 impose sanctions, including jail sanctions not exceeding 30 days,
7 a tool to enhance treatment compliance.

8 (3) (A) If a defendant receives probation under subdivision (a),
9 and violates that probation either by committing a nonviolent drug
10 possession offense, or a misdemeanor for simple possession or use
11 of drugs or drug paraphernalia, being present where drugs are used,
12 or failure to register as a drug offender, or any activity similar to
13 those listed in subdivision (d) of Section 1210, or by violating a
14 drug-related condition of probation, and the state moves to revoke
15 probation, the court shall conduct a hearing to determine whether
16 probation shall be revoked. The trial court shall revoke probation
17 if the alleged probation violation is proved and the state proves by
18 a preponderance of the evidence that the defendant poses a danger
19 to the safety of others. If the court does not revoke probation, it
20 may intensify or alter the drug treatment plan and in addition, if
21 the violation does not involve the recent use of drugs as a
22 circumstance of the violation, including, but not limited to,
23 violations relating to failure to appear at treatment or court,
24 noncompliance with treatment, and failure to report for drug
25 testing, the court may impose sanctions including jail sanctions
26 that may not exceed 48 hours of continuous custody as a tool to
27 enhance treatment compliance and impose other changes in the
28 terms and conditions of probation. The court shall consider, among
29 other factors, the seriousness of the violation, previous treatment
30 compliance, employment, education, vocational training, medical
31 conditions, medical treatment, including narcotics replacement
32 treatment, and including the opinion of the defendant's licensed
33 and treating physician if immediately available and presented at
34 the hearing, child support obligations, and family responsibilities.
35 The court shall consider additional conditions of probation, which
36 may include, but are not limited to, community service and
37 supervised work programs. If one of the circumstances of the
38 violation involves recent drug use, as well as other circumstances
39 of violation, and the circumstance of recent drug use is
40 demonstrated to the court by satisfactory evidence and a finding

1 made on the record, the court may, after receiving input from
2 treatment and probation, if available, direct the defendant to enter
3 a licensed detoxification or residential treatment facility, and if
4 there is no bed immediately available in that type of facility, the
5 court may order that the defendant be confined in a county jail for
6 detoxification purposes only, if the jail offers detoxification
7 services, for a period not to exceed 10 days. The detoxification
8 services must provide narcotic replacement therapy for those
9 defendants presently actually receiving narcotic replacement
10 therapy.

11 (B) If a defendant receives probation under subdivision (a), and
12 for the second time violates that probation either by committing a
13 nonviolent drug possession offense, or a misdemeanor for simple
14 possession or use of drugs or drug paraphernalia, being present
15 where drugs are used, or failure to register as a drug offender, or
16 any activity similar to those listed in subdivision (d) of Section
17 1210, or by violating a drug-related condition of probation, and
18 the state moves to revoke probation, the court shall conduct a
19 hearing to determine whether probation shall be revoked. The trial
20 court shall revoke probation if the alleged probation violation is
21 proved and the state proves by a preponderance of the evidence
22 either that the defendant poses a danger to the safety of others or
23 is unamenable to drug treatment. In determining whether a
24 defendant is unamenable to drug treatment, the court may consider,
25 to the extent relevant, whether the defendant (i) has committed a
26 serious violation of rules at the drug treatment program, (ii) has
27 repeatedly committed violations of program rules that inhibit the
28 defendant's ability to function in the program, or (iii) has
29 continually refused to participate in the program or asked to be
30 removed from the program. If the court does not revoke probation,
31 it may intensify or alter the drug treatment plan, and may, in
32 addition, if the violation does not involve the recent use of drugs
33 as a circumstance of the violation, including, but not limited to,
34 violations relating to failure to appear at treatment or court,
35 noncompliance with treatment, and failure to report for drug
36 testing, impose sanctions including jail sanctions that may not
37 exceed 120 hours of continuous custody as a tool to enhance
38 treatment compliance and impose other changes in the terms and
39 conditions of probation. The court shall consider, among other
40 factors, the seriousness of the violation, previous treatment

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

21 (C) If a defendant receives probation under subdivision (a), and
22 for the third or subsequent time violates that probation either by
23 committing a nonviolent drug possession offense, or by violating
24 a drug-related condition of probation, and the state moves for a
25 third or subsequent time to revoke probation, the court shall
26 conduct a hearing to determine whether probation shall be revoked.
27 If the alleged probation violation is proved, the defendant is not
28 eligible for continued probation under subdivision (a) unless the
29 court determines that the defendant is not a danger to the
30 community and would benefit from further treatment under
31 subdivision (a). The court may then either intensify or alter the
32 treatment plan under subdivision (a) or transfer the defendant to
33 a highly structured drug court. If the court continues the defendant
34 in treatment under subdivision (a), or drug court, the court may
35 impose appropriate sanctions including jail sanctions as the court
36 deems appropriate.

37 (D) If a defendant on probation at the effective date of this act
38 for a nonviolent drug possession offense violates that probation
39 either by committing a nonviolent drug possession offense, or a
40 misdemeanor for simple possession or use of drugs or drug

1 paraphernalia, being present where drugs are used, or failure to
2 register as a drug offender, or any activity similar to those listed
3 in subdivision (d) of Section 1210, or by violating a drug-related
4 condition of probation, and the state moves to revoke probation,
5 the court shall conduct a hearing to determine whether probation
6 shall be revoked. The trial court shall revoke probation if the
7 alleged probation violation is proved and the state proves by a
8 preponderance of the evidence that the defendant poses a danger
9 to the safety of others. If the court does not revoke probation, it
10 may modify or alter the treatment plan, and in addition, if the
11 violation does not involve the recent use of drugs as a circumstance
12 of the violation, including, but not limited to, violations relating
13 to failure to appear at treatment or court, noncompliance with
14 treatment, and failure to report for drug testing, the court may
15 impose sanctions including jail sanctions that may not exceed 48
16 hours of continuous custody as a tool to enhance treatment
17 compliance and impose other changes in the terms and conditions
18 of probation. The court shall consider, among other factors, the
19 seriousness of the violation, previous treatment compliance,
20 employment, education, vocational training, medical conditions,
21 medical treatment, including narcotics replacement treatment, and
22 including the opinion of the defendant's licensed and treating
23 physician if immediately available and presented at the hearing,
24 child support obligations, and family responsibilities. The court
25 shall consider additional conditions of probation, which may
26 include, but are not limited to, community service and supervised
27 work programs. If one of the circumstances of the violation
28 involves recent drug use, as well as other circumstances of
29 violation, and the circumstance of recent drug use is demonstrated
30 to the court by satisfactory evidence and a finding made on the
31 record, the court may, after receiving input from treatment and
32 probation, if available, direct the defendant to enter a licensed
33 detoxification or residential treatment facility, and if there is no
34 bed immediately available in that type of facility, the court may
35 order that the defendant be confined in a county jail for
36 detoxification purposes only, if the jail offers detoxification
37 services, for a period not to exceed 10 days. The detoxification
38 services must provide narcotic replacement therapy for those
39 defendants presently actually receiving narcotic replacement
40 therapy.

1 (E) If a defendant on probation at the effective date of this act
2 for a nonviolent drug possession offense violates that probation a
3 second time either by committing a nonviolent drug possession
4 offense, or a misdemeanor for simple possession or use of drugs
5 or drug paraphernalia, being present where drugs are used, or
6 failure to register as a drug offender, or any activity similar to
7 those listed in subdivision (d) of Section 1210, or by violating a
8 drug-related condition of probation, and the state moves for a
9 second time to revoke probation, the court shall conduct a hearing
10 to determine whether probation shall be revoked. The trial court
11 shall revoke probation if the alleged probation violation is proved
12 and the state proves by a preponderance of the evidence either that
13 the defendant poses a danger to the safety of others or that the
14 defendant is unamenable to drug treatment. If the court does not
15 revoke probation, it may modify or alter the treatment plan, and
16 in addition, if the violation does not involve the recent use of drugs
17 as a circumstance of the violation, including, but not limited to,
18 violations relating to failure to appear at treatment or court,
19 noncompliance with treatment, and failure to report for drug
20 testing, the court may impose sanctions including jail sanctions
21 that may not exceed 120 hours of continuous custody as a tool to
22 enhance treatment compliance and impose other changes in the
23 terms and conditions of probation. The court shall consider, among
24 other factors, the seriousness of the violation, previous treatment
25 compliance, employment, education, vocational training, medical
26 conditions, medical treatment including narcotics replacement
27 treatment, and including the opinion of the defendant's licensed
28 and treating physician if immediately available and presented at
29 the hearing, child support obligations, and family responsibilities.
30 The court shall consider additional conditions of probation, which
31 may include, but are not limited to, community service and
32 supervised work programs. If one of the circumstances of the
33 violation involves recent drug use, as well as other circumstances
34 of violation, and the circumstance of recent drug use is
35 demonstrated to the court by satisfactory evidence and a finding
36 made on the record, the court may, after receiving input from
37 treatment and probation, if available, direct the defendant to enter
38 a licensed detoxification or residential treatment facility, and if
39 there is no bed immediately available in that type of facility, the
40 court may order that the defendant be confined in a county jail for

1 detoxification purposes only, if the jail offers detoxification
2 services, for a period not to exceed 10 days. The detoxification
3 services must provide narcotic replacement therapy for those
4 defendants presently actually receiving narcotic replacement
5 therapy.

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

21 (g) The term “drug-related condition of probation” shall include
22 a probationer’s specific drug treatment regimen, employment,
23 vocational training, educational programs, psychological
24 counseling, and family counseling.

25 *SEC. 92. Section 1210.15 of the Penal Code is repealed.*

26 ~~1210.15. (a) A chief probation officer may charge persons on~~
27 ~~probation for the costs of any form of supervision that utilizes~~
28 ~~continuous electronic monitoring devices that monitor the~~
29 ~~whereabouts of the person pursuant to this chapter, upon a finding~~
30 ~~of the ability to pay those costs. However, the department shall~~
31 ~~waive any or all of that payment upon a finding of an inability to~~
32 ~~pay. Inability to pay all or a portion of the costs of continuous~~
33 ~~electronic monitoring authorized by this chapter shall not preclude~~
34 ~~use of continuous electronic monitoring, and eligibility for~~
35 ~~probation shall not be enhanced by reason of ability to pay.~~

36 ~~(b) A chief probation officer may charge a person on probation~~
37 ~~pursuant to subdivision (a) for the cost of continuous electronic~~
38 ~~monitoring in accordance with Section 1203.1b provided the person~~
39 ~~has first satisfied all other outstanding base fines, state and local~~

1 ~~penalties, restitution fines, and restitution orders imposed by a~~
2 ~~court.~~

3 *SEC. 93. Section 1211 of the Penal Code is amended to read:*

4 1211. (a) In order to ensure the quality of drug diversion
5 programs provided pursuant to this chapter and Chapter 2.5
6 (commencing with Section 1000) of Title 6, and to expand the
7 availability of these programs, the county drug program
8 administrator in each county, in consultation with representatives
9 of the court and the county probation department, shall establish
10 ~~minimum requirements, criteria, and fees~~ *requirements and criteria*
11 ~~for the successful completion of drug diversion programs~~
12 *programs*, which shall be approved by the county board of
13 ~~supervisors no later than January 1, 1995.~~ *supervisors*. These
14 minimum requirements shall include, but not be limited to, all of
15 the following:

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

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

19 (B) Education.

20 (C) Vocational achievements.

21 (D) Criminal history.

22 (E) Medical history.

23 (F) Drug history and previous treatment.

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

26 (3) An exit conference which shall reflect the divertee's progress
27 ~~during his or her~~ *the divertee's* participation in the program.

28 ~~(4) Fee exemptions for persons who cannot afford to pay.~~

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

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

37 (1) Guidelines and criteria for education and treatment services,
38 including standards of services which may include lectures, classes,
39 group discussions, and individual counseling. However, any class

1 or group discussion other than ~~lectures~~, *lectures* shall not exceed
2 15 persons at any one meeting.

3 (2) Established and approved supervision, either on a regular
4 or irregular basis, of the person for the purpose of evaluating the
5 person’s progress.

6 ~~(3) A schedule of fees to be charged for services rendered to~~
7 ~~each person under a county drug program plan in accordance with~~
8 ~~the following provisions:~~

9 ~~(A) Fees shall be used only for the purposes set forth in this~~
10 ~~chapter.~~

11 ~~(B) Fees for the treatment or rehabilitation of each participant~~
12 ~~receiving services under a certified drug diversion program shall~~
13 ~~not exceed the actual cost thereof, as determined by the county~~
14 ~~drug program administrator according to standard accounting~~
15 ~~practices.~~

16 ~~(C) Actual costs shall include both of the following:~~

17 ~~(i) All costs incurred by the providers of diversion programs.~~

18 ~~(ii) All expenses incurred by the county for administration,~~
19 ~~certification, or management of the drug diversion program in~~
20 ~~compliance with this chapter.~~

21 ~~(d) The county shall require, as a condition of certification, that~~
22 ~~the drug diversion program pay to the county drug program~~
23 ~~administrator all expenses incurred by the county for~~
24 ~~administration, certification, or management of the drug diversion~~
25 ~~program in compliance with this chapter. No fee shall be required~~
26 ~~by any county other than that county where the program is located.~~

27 *SEC. 94. Section 1214.1 of the Penal Code is repealed.*

28 ~~1214.1. (a) In addition to any other penalty in infraction,~~
29 ~~misdemeanor, or felony cases, the court may impose a civil~~
30 ~~assessment of up to three hundred dollars (\$300) against a~~
31 ~~defendant who fails, after notice and without good cause, to appear~~
32 ~~in court for a proceeding authorized by law or who fails to pay all~~
33 ~~or any portion of a fine ordered by the court or to pay an installment~~
34 ~~of bail as agreed to under Section 40510.5 of the Vehicle Code.~~
35 ~~This assessment shall be deposited in the Trial Court Trust Fund,~~
36 ~~as provided in Section 68085.1 of the Government Code.~~

37 ~~(b) (1) The assessment imposed pursuant to subdivision (a)~~
38 ~~shall not become effective until at least 20 calendar days after the~~
39 ~~court mails a warning notice to the defendant by first-class mail~~
40 ~~to the address shown on the notice to appear or to the defendant’s~~

1 last known address. If the defendant appears within the time
2 specified in the notice and shows good cause for the failure to
3 appear or for the failure to pay a fine or installment of bail, the
4 court shall vacate the assessment.

5 (2) Payment of bail, fines, penalties, fees, or a civil assessment
6 shall not be required in order for the court to vacate the assessment
7 at the time of appearance pursuant to paragraph (1). Payment of a
8 civil assessment shall not be required to schedule a court hearing
9 on a pending underlying charge.

10 (c) If a civil assessment is imposed pursuant to subdivision (a),
11 no bench warrant or warrant of arrest shall be issued with respect
12 to the failure to appear at the proceeding for which the assessment
13 is imposed or the failure to pay the fine or installment of bail. An
14 outstanding, unserved bench warrant or warrant of arrest for a
15 failure to appear or for a failure to pay a fine or installment of bail
16 shall be recalled prior to the subsequent imposition of a civil
17 assessment.

18 (d) The assessment imposed pursuant to subdivision (a) shall
19 be subject to the due process requirements governing defense and
20 collection of civil money judgments generally.

21 (e) Each court and county shall maintain the collection program
22 that was in effect on July 1, 2005, unless otherwise agreed to by
23 the court and county. If a court and a county do not agree on a plan
24 for the collection of civil assessments imposed pursuant to this
25 section, or any other collections under Section 1463.010, after the
26 implementation of Sections 68085.6 and 68085.7 of the
27 Government Code, the court or the county may request arbitration
28 by a third party mutually agreed upon by the Administrative
29 Director of the Courts and the California State Association of
30 Counties.

31 *SEC. 95. Section 1214.5 of the Penal Code is repealed.*

32 1214.5. (a) In any case in which the defendant is ordered to
33 pay more than fifty dollars (\$50) in restitution as a condition of
34 probation, the court may, as an additional condition of probation
35 since the court determines that the defendant has the ability to pay,
36 as defined in paragraph (2) of subdivision (b) of Section 27755 of
37 the Government Code, order the defendant to pay interest at the
38 rate of 10 percent per annum on the principal amount remaining
39 unsatisfied.

1 ~~(b) (1) Except as provided in paragraph (2), interest commences~~
2 ~~to accrue on the date of entry of the judgment or order.~~

3 ~~(2) Unless the judgment or order otherwise provides, if~~
4 ~~restitution is payable in installments, interest commences to accrue~~
5 ~~as to each installment on the date the installment becomes due.~~

6 *SEC. 96. Section 1462.5 of the Penal Code is amended to read:*

7 1462.5. Each installment or partial payment of a fine, ~~penalty,~~
8 ~~forfeiture, or fee penalty, or forfeiture~~ shall be prorated among the
9 state and local shares according to the trial court revenue
10 distribution guidelines established by the Controller pursuant to
11 Section 71380 of the Government Code. In cases subject to Section
12 1463.18 of the Penal Code, proration shall not occur until the
13 minimum amounts have been transferred to the Restitution Fund
14 as provided in that section.

15 *SEC. 97. Section 1463 of the Penal Code is amended to read:*

16 1463. All fines and forfeitures imposed and collected for crimes
17 shall be distributed in accordance with Section 1463.001.

18 The following definitions shall apply to terms used in this
19 chapter:

20 (a) “Arrest” means any law enforcement action, including
21 issuance of a notice to appear or notice of violation, which results
22 in a criminal charge.

23 (b) “City” includes any city, city and county, district, including
24 any enterprise special district, community service district, or
25 community service area engaged in police protection activities as
26 reported to the Controller for inclusion in the 1989–90 edition of
27 the Financial Transactions Report Concerning Special Districts
28 under the heading of Police Protection and Public Safety, authority,
29 or other local agency (other than a county) which employs persons
30 authorized to make arrests or to issue notices to appear or notices
31 of violation which may be filed in court.

32 (c) “City arrest” means an arrest by an employee of a city, or
33 by a California Highway Patrol officer within the limits of a city.

34 (d) “County” means the county in which the arrest took place.

35 (e) “County arrest” means an arrest by a California Highway
36 Patrol officer outside the limits of a city, or any arrest by a county
37 officer or by any other state officer.

38 (f) “Court” means the superior court or a juvenile forum
39 established under Section 257 of the Welfare and Institutions Code,
40 in which the case arising from the arrest is filed.

1 (g) “Division of moneys” means an allocation of base fine
2 proceeds between agencies as required by statute, including, but
3 not limited to, Sections 1463.003, 1463.9, 1463.23, and 1463.26
4 of this code, Sections 13001, 13002, and 13003 of the Fish and
5 Game Code, and Section 11502 of the Health and Safety Code.

6 (h) “Offense” means any infraction, misdemeanor, or felony,
7 and any act by a juvenile leading to an order to pay a financial
8 sanction by reason of the act being defined as an infraction,
9 misdemeanor, or felony, whether defined in this or any other code,
10 except any parking offense as defined in subdivision (i).

11 (i) “Parking offense” means any offense charged pursuant to
12 Article 3 (commencing with Section 40200) of Chapter 1 of
13 Division 17 of the Vehicle Code, including registration and
14 equipment offenses included on a notice of parking violation.

15 (j) “Penalty allocation” means the deposit of a specified part of
16 moneys to offset designated processing costs, as provided by
17 Section 1463.16 of this code and by Section 68090.8 of the
18 Government Code.

19 (k) “Total parking penalty” means the total sum to be collected
20 for a parking offense, whether as fine, forfeiture of bail, or payment
21 of penalty to the Department of Motor Vehicles (DMV). It may
22 include the following components:

23 (1) The base parking penalty as established pursuant to Section
24 40203.5 of the Vehicle Code.

25 (2) The DMV fees added upon the placement of a hold pursuant
26 to Section 40220 of the Vehicle Code.

27 (3) The surcharges required by Section 76000 of the Government
28 Code.

29 (4) The notice penalty added to the base parking penalty when
30 a notice of delinquent parking violations is given.

31 (l) “Total fine or forfeiture” means the total sum to be collected
32 upon a conviction, or the total amount of bail forfeited or deposited
33 as cash bail subject to forfeiture. It may include, but is not limited
34 to, the following components as specified for the particular offense:

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

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

39 (3) The “DNA penalty” required by Sections 76104.6 and
40 76104.7 of the Government Code.

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

3 (5) The “service charge” permitted by Section 853.7 of the Penal
4 Code ~~and Section 40508.5 of the Vehicle Code.~~

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

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

9 *SEC. 98. Section 1463.007 of the Penal Code is amended to*
10 *read:*

11 1463.007. (a) Notwithstanding any other law, a county or court
12 that operates a comprehensive collection program may deduct the
13 costs of operating that program, excluding capital expenditures,
14 from any revenues collected under that program. The costs shall
15 be deducted before any distribution of revenues to other
16 governmental entities required by any other law. A county or court
17 operating a comprehensive collection program may establish a
18 minimum base fee, fine, forfeiture, penalty, or assessment amount
19 for inclusion in the program.

20 (b) Once debt becomes delinquent, it continues to be delinquent
21 and may be subject to collection by a comprehensive collection
22 program. Debt is delinquent and subject to collection by a
23 comprehensive collection program if any of the following
24 conditions is met:

25 (1) A defendant does not post bail or appear on or before the
26 date on which ~~he or she~~ *they* promised to appear, or any lawful
27 continuance of that date, if that defendant was eligible to post and
28 forfeit bail.

29 (2) A defendant does not pay the amount imposed by the court
30 on or before the date ordered by the court, or any lawful
31 continuance of that date.

32 (3) A defendant has failed to make an installment payment on
33 the date specified by the court.

34 (c) For the purposes of this section, a “comprehensive collection
35 program” is a separate and distinct revenue collection activity that
36 meets each of the following criteria:

37 (1) The program identifies and collects amounts arising from
38 delinquent court-ordered debt, whether or not a warrant has been
39 issued against the alleged violator.

1 (2) The program complies with the requirements of subdivision
2 (b) of Section 1463.010.

3 (3) The program engages in each of the following activities:

4 (A) Attempts telephone contact with delinquent debtors for
5 whom the program has a telephone number to inform them of their
6 delinquent status and payment options.

7 (B) Notifies delinquent debtors for whom the program has an
8 address in writing of their outstanding obligation within 95 days
9 of delinquency.

10 (C) Generates internal monthly reports to track collections data,
11 such as age of debt and delinquent amounts outstanding.

12 (D) Uses Department of Motor Vehicles information to locate
13 delinquent debtors.

14 (E) Accepts payment of delinquent debt by credit card.

15 (4) The program engages in at least five of the following
16 activities:

17 (A) Sends delinquent debt to the Franchise Tax Board's
18 Court-Ordered Debt Collections Program.

19 (B) Sends delinquent debt to the Franchise Tax Board's
20 Interagency Intercept Collections Program.

21 (C) Initiates driver's license suspension or hold actions when
22 appropriate for a failure to appear in court.

23 (D) Contracts with one or more private debt collectors to collect
24 delinquent debt.

25 (E) Sends monthly bills or account statements to all delinquent
26 debtors.

27 (F) Contracts with local, regional, state, or national skip tracing
28 or locator resources or services to locate delinquent debtors.

29 (G) Coordinates with the probation department to locate debtors
30 who may be on formal or informal probation.

31 (H) Uses Employment Development Department employment
32 and wage information to collect delinquent debt.

33 (I) Establishes wage and bank account garnishments where
34 appropriate.

35 (J) Places liens on real property owned by delinquent debtors
36 when appropriate.

37 (K) Uses an automated dialer or automatic call distribution
38 system to manage telephone calls.

39 *SEC. 99. Section 1463.010 of the Penal Code is amended to*
40 *read:*

1 1463.010. The uniform imposition and enforcement of
2 court-ordered debts are recognized as an important element of
3 California's judicial system. Prompt, efficient, and effective
4 imposition and collection of court-ordered fees, fines, forfeitures,
5 penalties, restitution, and assessments ensure the appropriate
6 respect for court orders. The California State Association of
7 Counties and the Administrative Office of the Courts are jointly
8 committed to identifying, improving, and seeking to expand access
9 to mechanisms and tools that will enhance efforts to collect
10 court-ordered debt. To provide for this prompt, efficient, and
11 effective collection:

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

23 (b) The courts and counties shall maintain the collection program
24 that was in place on January 1, 1996, unless otherwise agreed to
25 in writing by the court and county. The program may wholly or
26 partially be staffed and operated within the court itself, may be
27 wholly or partially staffed and operated by the county, or may be
28 wholly or partially contracted with a third party. In carrying out
29 this collection program, each superior court and county shall
30 develop a cooperative plan to implement the Judicial Council
31 guidelines. In the event that a court and a county are unwilling or
32 unable to enter into a cooperative plan pursuant to this section,
33 ~~prior to the arbitration procedures required by subdivision (e) of~~
34 ~~Section 1214.1,~~ the court or the county may request the
35 continuation of negotiations with mediation assistance as mutually
36 agreed upon and provided by the Administrative Director of the
37 Courts and the California State Association of Counties.

38 (c) The Judicial Council shall develop performance measures
39 and benchmarks to review the effectiveness of the cooperative
40 superior court and county collection programs operating pursuant

1 to this section. Each superior court and county shall jointly report
2 to the Judicial Council, as provided by the Judicial Council,
3 information requested in a reporting template on or before
4 September 1, 2009, and annually thereafter. The Judicial Council
5 shall report to the Legislature on December 31, 2009, and annually
6 thereafter, on all of the following:

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

9 (2) The performance of each collection program.

10 (3) Any changes necessary to improve performance of collection
11 programs statewide.

12 (d) The Judicial Council may, when the efficiency and
13 effectiveness of the collection process may be improved, facilitate
14 a joint collection program between superior courts, between
15 counties, or between superior courts and counties.

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

28 (f) Notwithstanding any other provision of law, the Judicial
29 Council, after consultation with the Franchise Tax Board with
30 respect to collections under Section 19280 of the Revenue and
31 Taxation Code, may provide for an amnesty program involving
32 the collection of outstanding fees, fines, forfeitures, penalties, and
33 assessments, applicable either statewide or within one or more
34 counties. The amnesty program shall provide that some or all of
35 the interest or collections costs imposed on outstanding fees, fines,
36 forfeitures, penalties, and assessments may be waived if the
37 remaining amounts due are paid within the amnesty period.

38 *SEC. 100. Section 1463.011 of the Penal Code is amended to*
39 *read:*

1 1463.011. (a) Notwithstanding any other provision of law, if
2 a court, during the course of its routine process to collect fees,
3 fines, forfeitures, or other penalties imposed by a court due to a
4 citation issued for the violation of a state or local law, obtains
5 information indicating that a person under 25 years of age, who
6 has been issued a citation for truancy, loitering, curfew violations,
7 or illegal lodging that is outstanding or unpaid, is homeless or has
8 no permanent address, the court shall not garnish the wages or
9 levy against bank accounts of that person until that person is 25
10 years of age or older, as that age is recorded by that person's credit
11 report or other document already in the possession of, or previously
12 provided to, the court.

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

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

21 (2) An institution that provides a temporary residence for
22 individuals intended to be institutionalized.

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

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

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

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

34 (f) Nothing in this section shall be construed to prevent a court
35 from garnishing a person's wages or levying against a person's
36 bank accounts if the court, subsequent to its initial determination
37 that the person was a homeless youth exempt from wage
38 garnishment or levy under this section, obtains evidence that the
39 individual is no longer homeless.

1 *SEC. 101. Section 1463.012 of the Penal Code is amended to*
2 *read:*

3 1463.012. (a) Notwithstanding any other law, if a court, during
4 the course of its routine process to collect ~~fees~~, fines, forfeitures,
5 or other penalties imposed by a court due to a citation issued for
6 the violation of a state or local law, obtains information indicating
7 that a person who has been issued a citation for loitering, curfew
8 violations, or illegal lodging that is outstanding or unpaid served
9 in the military within the last eight years and is homeless or has
10 no permanent address, the court shall not garnish the wages or
11 levy against bank accounts of that person for five years from the
12 date that the court obtained that information.

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

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

21 (2) An institution that provides a temporary residence for
22 individuals intended to be institutionalized.

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

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

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

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

34 (f) Nothing in this section shall be construed to prevent a court
35 from garnishing a person’s wages or levying against a person’s
36 bank accounts if the court, subsequent to its initial determination
37 that the person was a homeless veteran exempt from wage
38 garnishment or levy under this section, obtains evidence that the
39 individual is no longer homeless, or that the court had, on a
40 previous occasion, suspended garnishment of that person’s wages

1 or levying against that person’s bank accounts pursuant to
2 subdivision (a).

3 *SEC. 102. Section 1463.07 of the Penal Code is repealed.*

4 ~~1463.07. An administrative screening fee of twenty-five dollars
5 (\$25) shall be collected from each person arrested and released on
6 his or her own recognizance upon conviction of any criminal
7 offense related to the arrest other than an infraction. A citation
8 processing fee in the amount of ten dollars (\$10) shall be collected
9 from each person cited and released by any peace officer in the
10 field or at a jail facility upon conviction of any criminal offense,
11 other than an infraction, related to the criminal offense cited in the
12 notice to appear. However, the court may determine a lesser fee
13 than otherwise provided in this subdivision upon a showing that
14 the defendant is unable to pay the full amount. All fees collected
15 pursuant to this subdivision shall be deposited by the county auditor
16 in the general fund of the county. This subdivision applies only to
17 convictions occurring on or after the effective date of the act adding
18 this subdivision.~~

19 *SEC. 103. Section 1463.14 of the Penal Code is amended to
20 read:*

21 1463.14. (a) Notwithstanding the provisions of Section 1463,
22 of the moneys deposited with the county treasurer pursuant to
23 Section 1463, fifty dollars (\$50) of each fine collected for each
24 conviction of a violation of Section 23103, 23104, 23105, 23152,
25 or 23153 of the Vehicle Code shall be deposited in a special
26 account that shall be used exclusively to pay for the cost of
27 performing for the county, or a city or special district within the
28 county, analysis of blood, breath or urine for alcohol content or
29 for the presence of drugs, or for services related to that testing.
30 The sum shall not exceed the reasonable cost of providing the
31 services for which the sum is intended.

32 On November 1 of each year, the treasurer of each county shall
33 determine those moneys in the special account that were not
34 expended during the preceding fiscal year, and shall transfer those
35 moneys into the general fund of the county. The board of
36 supervisors may, by resolution, assign the treasurer’s duty to
37 determine the amount of money that was not expended to the
38 auditor or another county officer. The county may retain an amount
39 of that money equal to its administrative cost incurred pursuant to
40 this section, and shall distribute the remainder pursuant to Section

1 1463. If the account becomes exhausted, the public entity ordering
2 a test performed pursuant to this subdivision shall bear the costs
3 of the test.

4 ~~(b) The board of supervisors of a county may, by resolution,~~
5 ~~authorize an additional penalty upon each defendant convicted of~~
6 ~~a violation of Section 23152 or 23153 of the Vehicle Code, of an~~
7 ~~amount equal to the cost of testing for alcohol content, less the~~
8 ~~fifty dollars (\$50) deposited as provided in subdivision (a). The~~
9 ~~additional penalty authorized by this subdivision shall be imposed~~
10 ~~only in those instances where the defendant has the ability to pay,~~
11 ~~but in no case shall the defendant be ordered to pay a penalty in~~
12 ~~excess of fifty dollars (\$50). The penalty authorized shall be~~
13 ~~deposited directly with the county, or city or special district within~~
14 ~~the county, that performed the test, in the special account described~~
15 ~~in subdivision (a), and shall not be the basis for an additional~~
16 ~~assessment pursuant to Section 1464, or Chapter 12 (commencing~~
17 ~~with Section 76010) of Title 8 of the Government Code.~~

18 ~~For purposes of this subdivision, “ability to pay” means the~~
19 ~~overall capability of the defendant to pay the additional penalty~~
20 ~~authorized by this subdivision, taking into consideration all of the~~
21 ~~following:~~

22 ~~(1) Present financial obligations, including family support~~
23 ~~obligations, and fines, penalties, and other obligations to the court.~~

24 ~~(2) Reasonably discernible future financial position over the~~
25 ~~next 12 months.~~

26 ~~(3) Any other factor or factors that may bear upon the~~
27 ~~defendant’s financial ability to pay the additional penalty.~~

28 ~~(e)~~

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

31 *SEC. 104. Section 1464.8 of the Penal Code is amended to*
32 *read:*

33 1464.8. Notwithstanding any other provision of law, when an
34 allocation and distribution of any fine, forfeiture, penalty, fee, or
35 assessment collected in any criminal case is made, including, but
36 not limited to, moneys collected pursuant to this chapter, Section
37 13003 of the Fish and Game Code, Chapter 12 (commencing with
38 Section 76000) of Title 8 of the Government Code, and Sections
39 11372.5 and 11502 of the Health and Safety Code, the allocation

1 and distribution of any payment may be based upon the law in
2 effect during the accounting period when the payment is made.

3 *SEC. 105. Section 1465.9 is added to the Penal Code, to read:*

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

24 *SEC. 106. Section 2085.5 of the Penal Code is amended to*
25 *read:*

26 2085.5. (a) If a prisoner owes a restitution fine imposed
27 pursuant to subdivision (a) of Section 13967 of the Government
28 Code, as operative prior to September 29, 1994, subdivision (b)
29 of Section 730.6 of the Welfare and Institutions Code, or
30 subdivision (b) of Section 1202.4 of this code, the secretary shall
31 deduct a minimum of 20 percent or the balance owing on the fine
32 amount, whichever is less, up to a maximum of 50 percent from
33 the wages and trust account deposits of a prisoner, unless prohibited
34 by federal law, and shall transfer that amount to the California
35 Victim Compensation Board for deposit in the Restitution Fund.
36 The amount deducted shall be credited against the amount owing
37 on the fine. The sentencing court shall be provided a record of the
38 payments.

39 (b) (1) If a prisoner is punished by imprisonment in a county
40 jail pursuant to subdivision (h) of Section 1170 and owes a

1 restitution fine imposed pursuant to subdivision (a) of Section
2 13967 of the Government Code, as operative prior to September
3 29, 1994, subdivision (b) of Section 730.6 of the Welfare and
4 Institutions Code, or subdivision (b) of Section 1202.4 of this code,
5 the agency designated by the board of supervisors in a county
6 where the prisoner is incarcerated is authorized to deduct a
7 minimum of 20 percent or the balance owing on the fine amount,
8 whichever is less, up to a maximum of 50 percent from the county
9 jail equivalent of wages and trust account deposits of a prisoner,
10 unless prohibited by federal law, and shall transfer that amount to
11 the California Victim Compensation Board for deposit in the
12 Restitution Fund. The amount deducted shall be credited against
13 the amount owing on the fine. The sentencing court shall be
14 provided a record of the payments.

15 (2) If the board of supervisors designates the county sheriff as
16 the collecting agency, the board of supervisors shall first obtain
17 the concurrence of the county sheriff.

18 (c) If a prisoner owes a restitution order imposed pursuant to
19 subdivision (c) of Section 13967 of the Government Code, as
20 operative prior to September 29, 1994, subdivision (h) of Section
21 730.6 of the Welfare and Institutions Code, or subdivision (f) of
22 Section 1202.4 of this code, the secretary shall deduct a minimum
23 of 20 percent or the balance owing on the order amount, whichever
24 is less, up to a maximum of 50 percent from the wages and trust
25 account deposits of a prisoner, unless prohibited by federal law.
26 The secretary shall transfer that amount to the California Victim
27 Compensation Board for direct payment to the victim, or payment
28 shall be made to the Restitution Fund to the extent that the victim
29 has received assistance pursuant to that program. The sentencing
30 court shall be provided a record of the payments made to victims
31 and of the payments deposited to the Restitution Fund pursuant to
32 this subdivision.

33 (d) If a prisoner is punished by imprisonment in a county jail
34 pursuant to subdivision (h) of Section 1170 and owes a restitution
35 order imposed pursuant to subdivision (c) of Section 13967 of the
36 Government Code, as operative prior to September 29, 1994,
37 subdivision (h) of Section 730.6 of the Welfare and Institutions
38 Code, or subdivision (b) of Section 1202.4 of this code, the agency
39 designated by the board of supervisors in the county where the
40 prisoner is incarcerated is authorized to deduct a minimum of 20

1 percent or the balance owing on the order amount, whichever is
2 less, up to a maximum of 50 percent from the county jail equivalent
3 of wages and trust account deposits of a prisoner, unless prohibited
4 by federal law. The agency shall transfer that amount to the
5 California Victim Compensation Board for direct payment to the
6 victim, or payment shall be made to the Restitution Fund to the
7 extent that the victim has received assistance pursuant to that
8 program, or may pay the victim directly. The sentencing court
9 shall be provided a record of the payments made to the victims
10 and of the payments deposited to the Restitution Fund pursuant to
11 this subdivision.

12 ~~(e) Except as provided in Section 2085.8, the secretary shall~~
13 ~~deduct and retain from the wages and trust account deposits of a~~
14 ~~prisoner, unless prohibited by federal law, an administrative fee~~
15 ~~to cover the actual administrative cost of collection, not to exceed~~
16 ~~10 percent of the amount collected pursuant to subdivision (a) or~~
17 ~~(e). The secretary shall deposit the administrative fee moneys in~~
18 ~~a special deposit account for reimbursing administrative and~~
19 ~~support costs of the restitution program of the department. The~~
20 ~~secretary, at his or her discretion, may retain any excess funds in~~
21 ~~the special deposit account for future reimbursement of the~~
22 ~~department's administrative and support costs for the restitution~~
23 ~~program or may transfer all or part of the excess funds for deposit~~
24 ~~in the Restitution Fund.~~

25 ~~(f) Except as provided in Section 2085.8, if a prisoner is~~
26 ~~punished by imprisonment in a county jail pursuant to subdivision~~
27 ~~(h) of Section 1170, the agency designated by the board of~~
28 ~~supervisors in a county where the prisoner is incarcerated may~~
29 ~~deduct and retain from the county jail equivalent of wages and~~
30 ~~trust account deposits of a prisoner, unless prohibited by federal~~
31 ~~law, an administrative fee to cover the actual administrative cost~~
32 ~~of collection, not to exceed 10 percent of the total amount collected,~~
33 ~~pursuant to subdivision (b) or (d). The agency shall deposit the~~
34 ~~administrative fee moneys in a special deposit account for~~
35 ~~reimbursing administrative and support costs of the restitution~~
36 ~~program of the agency. The agency may retain any excess funds~~
37 ~~in the special deposit account for future reimbursement of the~~
38 ~~agency's administrative and support costs for the restitution~~
39 ~~program or may transfer all or part of the excess funds for deposit~~
40 ~~in the Restitution Fund.~~

1 ~~(g)~~

2 (e) In any case in which a parolee owes a restitution fine
3 imposed pursuant to subdivision (a) of Section 13967 of the
4 Government Code, as operative prior to September 29, 1994,
5 subdivision (b) of Section 730.6 of the Welfare and Institutions
6 Code, or subdivision (b) of Section 1202.4 of this code, either the
7 secretary or, if a prisoner is punished by imprisonment in a county
8 jail pursuant to subdivision (h) of Section 1170, the agency
9 designated by the board of supervisors in the county where the
10 prisoner is incarcerated may collect from the parolee any moneys
11 owing on the restitution fine amount, unless prohibited by federal
12 law. The secretary or the agency shall transfer that amount to the
13 California Victim Compensation Board for deposit in the
14 Restitution Fund. The amount deducted shall be credited against
15 the amount owing on the fine. The sentencing court shall be
16 provided a record of the payments.

17 ~~(h)~~

18 (f) In any case in which a parolee owes a direct order of
19 restitution, imposed pursuant to subdivision (c) of Section 13967
20 of the Government Code, as operative prior to September 29, 1994,
21 subdivision (h) of Section 730.6 of the Welfare and Institutions
22 Code, or paragraph (3) of subdivision (a) of Section 1202.4, either
23 the secretary or, if a prisoner is punished by imprisonment in a
24 county jail pursuant to subdivision (h) of Section 1170, the agency
25 designated by the board of supervisors in the county where the
26 prisoner is incarcerated or a local collection program may collect
27 from the parolee any moneys owing, unless prohibited by federal
28 law. The secretary or the agency shall transfer that amount to the
29 California Victim Compensation Board for direct payment to the
30 victim, or payment shall be made to the Restitution Fund to the
31 extent that the victim has received assistance pursuant to that
32 program, or the agency may pay the victim directly. The sentencing
33 court shall be provided a record of the payments made by the
34 offender pursuant to this subdivision.

35 ~~(i) Except as provided in Section 2085.8, either the secretary~~
36 ~~or, if a prisoner is punished by imprisonment in a county jail~~
37 ~~pursuant to subdivision (h) of Section 1170, the agency designated~~
38 ~~by the board of supervisors in the county where the prisoner is~~
39 ~~incarcerated may deduct and retain from moneys collected from~~
40 ~~parolees an administrative fee to cover the actual administrative~~

1 cost of collection, not to exceed 10 percent of the total amount
2 collected pursuant to subdivision (g) or (h), unless prohibited by
3 federal law. The secretary or the agency shall deposit the
4 administrative fee moneys in a special deposit account for
5 reimbursing administrative and support costs of the department or
6 agency's restitution program, as applicable. The secretary, at his
7 or her discretion, or the agency may retain any excess funds in the
8 special deposit account for future reimbursement of the
9 department's or agency's administrative and support costs for the
10 restitution program or may transfer all or part of the excess funds
11 for deposit in the Restitution Fund.

12 ~~(j)~~

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

16 ~~(k)~~

17 (h) If a prisoner is punished by imprisonment in a county jail
18 pursuant to subdivision (h) of Section 1170 and that prisoner has
19 both a restitution fine and a restitution order from the sentencing
20 court, if the agency designated by the board of supervisors in the
21 county where the prisoner is incarcerated collects the fine and
22 order, the agency shall collect the restitution order first pursuant
23 to subdivision (d).

24 ~~(l)~~

25 (i) If a parolee has both a restitution fine and a restitution order
26 from the sentencing court, either the department or, if the prisoner
27 is punished by imprisonment in a county jail pursuant to
28 subdivision (h) of Section 1170, the agency designated by the
29 board of supervisors in the county where the prisoner is
30 incarcerated may collect the restitution order first, pursuant to
31 subdivision ~~(h)~~: (f).

32 ~~(m)~~

33 (j) If an inmate is housed at an institution that requires food to
34 be purchased from the institution canteen for unsupervised
35 overnight visits, and if the money for the purchase of this food is
36 received from funds other than the inmate's wages, that money
37 shall be exempt from restitution deductions. This exemption shall
38 apply to the actual amount spent on food for the visit up to a
39 maximum of fifty dollars (\$50) for visits that include the inmate
40 and one visitor, seventy dollars (\$70) for visits that include the

1 inmate and two or three visitors, and eighty dollars (\$80) for visits
2 that include the inmate and four or more visitors.

3 ~~(n)~~

4 (k) (1) Amounts transferred to the California Victim
5 Compensation Board for payment of direct orders of restitution
6 shall be paid to the victim within 60 days from the date the
7 restitution revenues are received by the California Victim
8 Compensation Board. If the restitution payment to a victim is less
9 than twenty-five dollars (\$25), then payment need not be forwarded
10 to that victim until the payment reaches twenty-five dollars (\$25)
11 or when the victim requests payment of the lesser amount.

12 (2) If a victim cannot be located, the restitution revenues
13 received by the California Victim Compensation Board on behalf
14 of the victim shall be held in trust in the Restitution Fund until the
15 end of the state fiscal year subsequent to the state fiscal year in
16 which the funds were deposited or until the time that the victim
17 has provided current address information, whichever occurs sooner.
18 Amounts remaining in trust at the end of the specified period of
19 time shall revert to the Restitution Fund.

20 (3) (A) A victim failing to provide a current address within the
21 period of time specified in paragraph (2) may provide
22 documentation to the department, which shall verify that moneys
23 were collected on behalf of the victim. Upon receipt of that verified
24 information from the department, the California Victim
25 Compensation Board shall transmit the restitution revenues to the
26 victim in accordance with the provisions of subdivision (c) or ~~(h)~~.
27 (f).

28 (B) A victim failing to provide a current address within the
29 period of time specified in paragraph (2) may provide
30 documentation to the agency designated by the board of supervisors
31 in the county where the prisoner punished by imprisonment in a
32 county jail pursuant to subdivision (h) of Section 1170 is
33 incarcerated, which may verify that moneys were collected on
34 behalf of the victim. Upon receipt of that verified information from
35 the agency, the California Victim Compensation Board shall
36 transmit the restitution revenues to the victim in accordance with
37 the provisions of subdivision (d) or ~~(h)~~. (f).

38 *SEC. 107. Section 2085.6 of the Penal Code is amended to*
39 *read:*

1 2085.6. (a) When a prisoner who owes a restitution fine, or
2 any portion thereof, is subsequently released from the custody of
3 the Department of Corrections and Rehabilitation or a county jail
4 facility, and is subject to postrelease community supervision under
5 Section 3451 or mandatory supervision under subdivision (h) of
6 Section 1170, ~~he or she~~ *the prisoner* shall have a continuing
7 obligation to pay the restitution fine in full. The restitution fine
8 obligation and any portion left unsatisfied upon placement in
9 postrelease community supervision or mandatory supervision is
10 enforceable and may be collected, in a manner to be established
11 by the county board of supervisors, by the department or county
12 agency designated by the board of supervisors in the county where
13 the prisoner is released. If a county elects to collect restitution
14 fines, the department or county agency designated by the county
15 board of supervisors shall transfer the amount collected to the
16 California Victim Compensation Board for deposit in the
17 Restitution Fund in the State Treasury.

18 (b) When a prisoner who owes payment for a restitution order,
19 or any portion thereof, is released from the custody of the
20 Department of Corrections and Rehabilitation or a county jail
21 facility, and is subject to postrelease community supervision under
22 Section 3451 or mandatory supervision under subdivision (h) of
23 Section 1170, ~~he or she~~ *the prisoner* shall have a continuing
24 obligation to pay the restitution order in full. The restitution order
25 obligation and any portion left unsatisfied upon placement in
26 postrelease community supervision or mandatory supervision is
27 enforceable and may be collected, in a manner to be established
28 by the county board of supervisors, by the agency designated by
29 the county board of supervisors in the county where the prisoner
30 is released. If the county elects to collect the restitution order, the
31 agency designated by the county board of supervisors for collection
32 shall transfer the collected amount to the California Victim
33 Compensation for deposit in the Restitution Fund in the State
34 Treasury or may pay the victim directly. The sentencing court shall
35 be provided a record of payments made to the victim and of the
36 payments deposited into the Restitution Fund.

37 (c) Any portion of a restitution order or restitution fine that
38 remains unsatisfied after an individual is released from postrelease
39 community supervision or mandatory supervision shall continue

1 to be enforceable by a victim pursuant to Section 1214 until the
2 obligation is satisfied.

3 ~~(d) At its discretion, a county board of supervisors may impose~~
4 ~~a fee upon the individual subject to postrelease community~~
5 ~~supervision or mandatory supervision to cover the actual~~
6 ~~administrative cost of collecting the restitution fine and the~~
7 ~~restitution order, not to exceed 10 percent of the amount collected,~~
8 ~~the proceeds of which shall be deposited into the general fund of~~
9 ~~the county.~~

10 (e)

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

14 (f)

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

19 (g)

20 (f) Pursuant to Section 1214, the county agency selected by a
21 county board of supervisors to collect restitution fines and
22 restitution orders may collect restitution fines and restitution orders
23 after an individual is no longer on postrelease community
24 supervision or mandatory supervision or after a term in custody
25 pursuant to subparagraph (A) of paragraph (5) of subdivision (h)
26 of Section 1170.

27 (h)

28 (g) For purposes of this section, the following definitions shall
29 apply:

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

35 (2) "Restitution order" means an order for restitution to the
36 victim of a crime imposed pursuant to subdivision (c) of Section
37 13967 of the Government Code, as operative prior to September
38 29, 1994, subdivision (h) of Section 730.6 of the Welfare and
39 Institutions Code, or subdivision (f) of Section 1202.4.

1 *SEC. 108. Section 2085.7 of the Penal Code is amended to*
2 *read:*

3 2085.7. (a) When a prisoner who owes a restitution fine, or
4 any portion thereof, is released from the custody of a county jail
5 facility after completion of a term in custody pursuant to
6 subparagraph (A) of paragraph (5) of subdivision (h) of Section
7 1170, ~~he or she~~ *the prisoner* has a continuing obligation to pay the
8 restitution fine in full. The balance of the restitution fine remaining
9 unpaid after completion of a term in custody pursuant to
10 subparagraph (A) of paragraph (5) of subdivision (h) of Section
11 1170 is enforceable and may be collected, in a manner to be
12 established by the county board of supervisors, by the department
13 or county agency designated by the board of supervisors in the
14 county in which the prisoner is released. If a county elects to collect
15 restitution fines, the department or county agency designated by
16 the county board of supervisors shall transfer the amount collected
17 to the California Victim Compensation Board for deposit in the
18 Restitution Fund.

19 (b) When a prisoner who owes payment for a restitution order,
20 or any portion thereof, is released from the custody of a county
21 jail facility after completion of a term in custody pursuant to
22 subparagraph (A) of paragraph (5) of subdivision (h) of Section
23 1170, ~~he or she~~ *the prisoner* has a continuing obligation to pay the
24 restitution order in full. The balance of the restitution order
25 remaining unpaid after completion of a term in custody pursuant
26 to subparagraph (A) of paragraph (5) of subdivision (h) of Section
27 1170 is enforceable and may be collected, in a manner to be
28 established by the county board of supervisors, by the agency
29 designated by the county board of supervisors in the county in
30 which the prisoner is released. If the county elects to collect the
31 restitution order, the agency designated by the county board of
32 supervisors for collection shall transfer the collected amount to
33 the California Victim Compensation Board for deposit in the
34 Restitution Fund or may pay the victim directly. The sentencing
35 court shall be provided a record of payments made to the victim
36 and of the payments deposited into the Restitution Fund.

37 (c) The amount of a restitution order or restitution fine that
38 remains unsatisfied after completion of a term in custody pursuant
39 to subparagraph (A) of paragraph (5) of subdivision (h) of Section

1 1170 is to be enforceable by a victim pursuant to Section 1214
2 until the obligation is satisfied.

3 ~~(d) Except as provided in Section 2085.8, at its discretion, a~~
4 ~~county board of supervisors may impose a fee upon the individual~~
5 ~~after completion of a term in custody pursuant to subparagraph~~
6 ~~(A) of paragraph (5) of subdivision (h) of Section 1170 to cover~~
7 ~~the actual administrative cost of collecting the restitution fine and~~
8 ~~the restitution order, in an amount not to exceed 10 percent of the~~
9 ~~amount collected, the proceeds of which shall be deposited into~~
10 ~~the general fund of the county.~~

11 ~~(e)~~

12 ~~(d) If a county elects to collect both a restitution fine and a~~
13 ~~restitution order, the amount owed on the restitution order shall~~
14 ~~be collected before the restitution fine.~~

15 ~~(f)~~

16 ~~(e) If a county elects to collect restitution fines and restitution~~
17 ~~orders pursuant to this section, the county shall coordinate efforts~~
18 ~~with the Franchise Tax Board pursuant to Section 19280 of the~~
19 ~~Revenue and Taxation Code.~~

20 ~~(g)~~

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

27 ~~(h)~~

28 ~~(g) For purposes of this section, the following definitions shall~~
29 ~~apply:~~

30 ~~(1) “Restitution fine” means a fine imposed pursuant to~~
31 ~~subdivision (a) of Section 13967 of the Government Code, as~~
32 ~~operative prior to September 29, 1994, subdivision (b) of Section~~
33 ~~730.6 of the Welfare and Institutions Code, or subdivision (b) of~~
34 ~~Section 1202.4.~~

35 ~~(2) “Restitution order” means an order for restitution to the~~
36 ~~victim of a crime imposed pursuant to subdivision (c) of Section~~
37 ~~13967 of the Government Code, as operative prior to September~~
38 ~~29, 1994, subdivision (h) of Section 730.6 of the Welfare and~~
39 ~~Institutions Code, or subdivision (f) of Section 1202.4.~~

1 *SEC. 109. Section 3000.07 of the Penal Code is amended to*
2 *read:*

3 3000.07. ~~(a) Every inmate who has been convicted for any~~
4 ~~felony violation of a “registerable sex offense” described in~~
5 ~~subdivision (c) of Section 290 or any attempt to commit any of~~
6 ~~the above-mentioned those offenses and who is committed to prison~~
7 ~~and released on parole pursuant to Section 3000 or 3000.1 shall~~
8 ~~be monitored by a global positioning system for the term of his or~~
9 ~~her the inmate’s parole, or for the duration or any remaining part~~
10 ~~thereof, whichever period of time is less.~~

11 ~~(b) Any inmate released on parole pursuant to this section shall~~
12 ~~be required to pay for the costs associated with the monitoring by~~
13 ~~a global positioning system. However, the Department of~~
14 ~~Corrections and Rehabilitation shall waive any or all of that~~
15 ~~payment upon a finding of an inability to pay. The department~~
16 ~~shall consider any remaining amounts the inmate has been ordered~~
17 ~~to pay in fines, assessments and restitution fines, fees, and orders,~~
18 ~~and shall give priority to the payment of those items before~~
19 ~~requiring that the inmate pay for the global positioning monitoring.~~
20 ~~No inmate shall be denied parole on the basis of his or her inability~~
21 ~~to pay for those monitoring costs.~~

22 *SEC. 110. Section 3010.8 of the Penal Code is repealed.*

23 3010.8. ~~(a) The department may charge persons on parole for~~
24 ~~the costs of any form of supervision that utilizes continuous~~
25 ~~electronic monitoring devices that monitor the whereabouts of the~~
26 ~~person pursuant to this article. Inability to pay all or a portion of~~
27 ~~the costs of continuous electronic monitoring authorized by this~~
28 ~~article shall not preclude use of continuous electronic monitoring~~
29 ~~and eligibility for parole shall not be enhanced by reason of ability~~
30 ~~to pay.~~

31 ~~(b) Any person released on parole pursuant to subdivision (a)~~
32 ~~may be required to pay for that monitoring upon a finding of the~~
33 ~~ability to pay those costs. However, the department shall waive~~
34 ~~any or all of that payment upon a finding of an inability to pay.~~
35 ~~The department shall consider any remaining amounts the person~~
36 ~~has been ordered to pay in fines, assessments and restitution fines,~~
37 ~~fees, and orders, and shall give priority to the payment of those~~
38 ~~items before requiring that the person pay for the continuous~~
39 ~~electronic monitoring.~~

1 *SEC. 111. Section 4011.1 of the Penal Code is amended to*
2 *read:*

3 4011.1. (a) Notwithstanding Section 29602 of the Government
4 Code and any other provisions of this chapter, a county, city or
5 the Department of the Youth Authority of Corrections and
6 Rehabilitation, Division of Juvenile Justice is authorized to make
7 claim for and recovery of the costs of necessary hospital, medical,
8 surgical, dental, or optometric care rendered to any prisoner
9 confined in a county or city jail or any juvenile confined in a
10 detention facility, who would otherwise be entitled to that care
11 under the Medi-Cal Act (Chapter 7 (commencing with Section
12 14000) Part 3, Division 9, of the Welfare and Institutions Code),
13 and who is eligible for that care on the first day of confinement or
14 detention, to the extent that federal financial participation is
15 available, or under the provisions of any private program or policy
16 for that care, and the county, city or the Department of the Youth
17 Authority Division of Juvenile Justice shall be liable only for the
18 costs of that care as cannot be recovered pursuant to this section.
19 No person who is eligible for Medi-Cal shall be eligible for benefits
20 under the provisions of this section, and no county or city or the
21 Department of the Youth Authority Division of Juvenile Justice
22 is authorized to make a claim for any recovery of costs for services
23 for that person, unless federal financial participation is available
24 for all or part of the costs of providing services to that person under
25 the Medi-Cal Act.

26 ~~Notwithstanding~~

27 (b) ~~Notwithstanding any other provision of law, any county or~~
28 ~~city making a claim pursuant to this section and under the Medi-Cal~~
29 ~~Act shall reimburse the Health Care Deposit Fund for the state~~
30 ~~costs of paying those medical claims. Funds allocated to the county~~
31 ~~from the County Health Services Fund pursuant to Part 4.5~~
32 ~~(commencing with Section 16700) of Division 9 of the Welfare~~
33 ~~and Institutions Code may be utilized by the county or city to make~~
34 ~~that reimbursement.~~

35 ~~(b) Notwithstanding Section 29602 of the Government Code~~
36 ~~and any other provisions of this chapter, to the extent that recovery~~
37 ~~of costs of necessary hospital, medical, surgical, dental, or~~
38 ~~optometric care are not accomplished under subdivision (a), a~~
39 ~~county, city, or the Department of the Youth Authority is~~
40 ~~authorized to make claim for and recover from a prisoner or a~~

1 person legally responsible for a prisoner's care and maintenance
2 the costs of necessary hospital, medical, surgical, dental, or
3 optometric care rendered to any prisoner confined in a county or
4 city jail, or any juvenile confined in a detention facility, where the
5 prisoner or the person legally responsible for the prisoner's care
6 and maintenance is financially able to pay for the prisoner's care,
7 support, and maintenance. Nothing in this subdivision shall be
8 construed to authorize a city, a county, or the Department of the
9 Youth Authority to make a claim against a spouse of a prisoner.

10 (e) Necessary hospital, medical, dental, or optometric care, as
11 used in this section, does not include care rendered with respect
12 to an injury occurring during confinement in a county or city jail
13 or juvenile detention facility, nor does it include any care or testing
14 mandated by law.

15 (d) Subdivisions (b) and (c) shall apply only where there has
16 been a determination of the present ability of the prisoner or
17 responsible third party to pay all or a portion of the cost of
18 necessary hospital, medical, surgical, dental, or optometric care.
19 The person legally responsible for the prisoner's care shall provide
20 a financial disclosure statement, executed under penalty of perjury,
21 based on his or her past year's income tax return, to the Department
22 of the Youth Authority. The city, county, or Department of the
23 Youth Authority may request that the prisoner appear before a
24 designated hearing officer for an inquiry into the ability of the
25 prisoner or responsible third party to pay all or part of the cost of
26 the care provided.

27 (e) Notice of this request shall be provided to the prisoner or
28 responsible third party, which shall contain the following:

29 (1) A statement of the cost of the care provided to the prisoner.

30 (2) The prisoner's or responsible third party's procedural rights
31 under this section.

32 (3) The time limit within which the prisoner or responsible third
33 party may respond.

34 (4) A warning that if the prisoner or responsible third party fails
35 to appear before, or respond to, the designated officer, the officer
36 may petition the court for an order requiring him or her to make
37 payment of the full cost of the care provided to the prisoner.

38 (f) At the hearing, the prisoner or responsible third party shall
39 be entitled to, but shall not be limited to, all of the following rights:

40 (1) The right to be heard in person.

1 ~~(2) The right to present witnesses and documentary evidence.~~

2 ~~(3) The right to confront and cross-examine adverse witnesses.~~

3 ~~(4) The right to have adverse evidence disclosed to him or her.~~

4 ~~(5) The right to a written statement of the findings of the~~
5 ~~designated hearing officer.~~

6 ~~(g) If the hearing officer determines that the prisoner or~~
7 ~~responsible third party has the present ability to pay all or a part~~
8 ~~of the cost, the officer shall set the amount to be reimbursed, and~~
9 ~~shall petition the court to order the prisoner or responsible third~~
10 ~~party to pay the sum to the city, county, or state, in the manner in~~
11 ~~which it finds reasonable and compatible to the prisoner's or~~
12 ~~responsible third party's financial ability. The court's order shall~~
13 ~~be enforceable in the manner provided for money judgments in a~~
14 ~~civil action under the Code of Civil Procedure.~~

15 ~~(h) At any time prior to satisfaction of the judgment rendered~~
16 ~~according to the terms of this section, a prisoner or responsible~~
17 ~~third party against whom a judgment has been rendered, may~~
18 ~~petition the rendering court for a modification of the previous~~
19 ~~judgment on the grounds of a change of circumstance with regard~~
20 ~~to his or her ability to pay the judgment. The prisoner or~~
21 ~~responsible third party shall be advised of this right at the time the~~
22 ~~original judgment is rendered.~~

23 ~~(i) As used in this section, "ability to pay" means the overall~~
24 ~~capacity of the prisoner or responsible third party to reimburse the~~
25 ~~costs, or a portion of the costs, of the care provided to the prisoner,~~
26 ~~and shall include, but not be limited to, all of the following:~~

27 ~~(1) The prisoner's or responsible third party's present financial~~
28 ~~position.~~

29 ~~(2) The prisoner's or responsible third party's discernible future~~
30 ~~financial position.~~

31 ~~(3) The likelihood that the prisoner or responsible third party~~
32 ~~will be able to obtain employment in the future.~~

33 ~~(4) Any other factor or factors which may bear upon the~~
34 ~~prisoner's or responsible third party's financial position.~~

35 *SEC. 112. Section 4011.2 of the Penal Code is repealed.*

36 ~~4011.2. (a) Notwithstanding Section 4011.1, a sheriff, chief~~
37 ~~or director of corrections, or chief of police is authorized to charge~~
38 ~~a fee in the amount of three dollars (\$3) for each inmate-initiated~~
39 ~~medical visit of an inmate confined in a county or city jail.~~

1 ~~(b) The fee shall be charged to the inmate’s personal account~~
2 ~~at the facility. If the inmate has no money in his or her personal~~
3 ~~account, there shall be no charge for the medical visit.~~

4 ~~(c) An inmate shall not be denied medical care because of a~~
5 ~~lack of funds in his or her personal account at the facility.~~

6 ~~(d) The medical provider may waive the fee for any~~
7 ~~inmate-initiated treatment and shall waive the fee in any~~
8 ~~life-threatening or emergency situation, defined as those health~~
9 ~~services required for alleviation of severe pain or for immediate~~
10 ~~diagnosis and treatment of unforeseen medical conditions that if~~
11 ~~not immediately diagnosed and treated could lead to disability or~~
12 ~~death.~~

13 ~~(e) Followup medical visits at the direction of the medical staff~~
14 ~~shall not be charged to the inmate.~~

15 ~~(f) All moneys received by a sheriff, chief or director of~~
16 ~~corrections, or chief of police pursuant to this section shall be~~
17 ~~transferred to the county or city general fund.~~

18 *SEC. 113. Section 4018.6 of the Penal Code is amended to*
19 *read:*

20 4018.6. The sheriff of the county may authorize the temporary
21 removal under custody or temporary release without custody of
22 any inmate of the county jail, honor farm, or other detention facility
23 for family emergencies or for purposes preparatory to ~~his~~ *the*
24 *inmate’s* return to the community, if the sheriff concludes that such
25 inmate is a fit subject therefor. Any such temporary removal shall
26 not be for a period of more than three days. When an inmate is
27 released for purposes preparatory to ~~his~~ *the inmate’s* return to the
28 community, the sheriff ~~may~~ *shall not* require the inmate to
29 reimburse the county, ~~in whole or in part,~~ *county* for expenses
30 incurred by the county in connection therewith.

31 *SEC. 114. Section 4024.2 of the Penal Code is amended to*
32 *read:*

33 4024.2. (a) Notwithstanding any other law, the board of
34 supervisors of any county may authorize the sheriff or other official
35 in charge of county correctional facilities to offer a voluntary
36 program under which any person committed to the facility may
37 participate in a work release program pursuant to criteria described
38 in subdivision (b), in which one day of participation will be in lieu
39 of one day of confinement.

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

1 (1) The work release program shall consist of any of the
2 following:

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

5 (B) Manual labor in support of nonprofit organizations, as
6 approved by the sheriff or other official in charge of the
7 correctional facilities. As a condition of assigning participants of
8 a work release program to perform manual labor in support of
9 nonprofit organizations pursuant to this section, the board of
10 supervisors shall obtain workers' compensation insurance which
11 shall be adequate to cover work-related injuries incurred by those
12 participants, in accordance with Section 3363.5 of the Labor Code.

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

17 (D) Performance of weed and rubbish abatement on public and
18 private property pursuant to Chapter 13 (commencing with Section
19 39501) of Part 2 of Division 3 of Title 4 of the Government Code,
20 or Part 5 (commencing with Section 14875) or Part 6 (commencing
21 with Section 14930) of Division 12 of the Health and Safety Code,
22 as approved by the sheriff or other official in charge of the
23 correctional facilities.

24 (E) Performance of house repairs or yard services for senior
25 citizens and the performance of repairs to senior centers through
26 contact with local senior service organizations, as approved by the
27 sheriff or other official in charge of the correctional facilities.
28 Where a work release participant has been assigned to this task,
29 the sheriff or other official shall agree upon in advance with the
30 senior service organization about the type of services to be rendered
31 by the participant and the extent of contact permitted between the
32 recipients of these services and the participant.

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

39 (2) The sheriff or other official may permit a participant in a
40 work release program to receive work release credit for documented

1 participation in educational programs, vocational programs,
2 substance abuse programs, life skills programs, or parenting
3 programs. Participation in these programs shall be considered in
4 lieu of performing labor in a work release program, with eight
5 work-related hours to equal one day of custody credit.

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

9 (4) The hours of labor to be performed pursuant to this section
10 shall be uniform for all persons committed to a facility in a county
11 and may be determined by the sheriff or other official in charge
12 of county correctional facilities, and each day shall be a minimum
13 of 8 and a maximum of 10 hours, in accordance with the normal
14 working hours of county employees assigned to supervise the
15 programs. However, reasonable accommodation may be made for
16 participation in a program under paragraph (2).

17 As used in this section, “nonprofit organizations” means
18 organizations established or operated for the benefit of the public
19 or in support of a significant public interest, as set forth in Section
20 501(c)(3) of the Internal Revenue Code. Organizations established
21 or operated for the primary purpose of benefiting their own
22 memberships are excluded.

23 (c) The board of supervisors may prescribe reasonable rules and
24 regulations under which a work release program is operated and
25 may provide that participants wear clothing of a distinctive
26 character while performing the work. As a condition of
27 participating in a work release program, a person shall give ~~his or~~
28 ~~her~~ *their* promise to appear for work or assigned activity by signing
29 a notice to appear before the sheriff or at the education, vocational,
30 or substance abuse program at a time and place specified in the
31 notice and shall sign an agreement that the sheriff may immediately
32 retake the person into custody to serve the balance of ~~his or her~~
33 *the person’s* sentence if the person fails to appear for the program
34 at the time and place agreed to, does not perform the work or
35 activity assigned, or for any other reason is no longer a fit subject
36 for release under this section. A copy of the notice shall be
37 delivered to the person and a copy shall be retained by the sheriff.
38 Any person who willfully violates ~~his or her~~ *their* written promise
39 to appear at the time and place specified in the notice is guilty of
40 a misdemeanor.

1 Whenever a peace officer has reasonable cause to believe the
2 person has failed to appear at the time and place specified in the
3 notice or fails to appear or work at the time and place agreed to or
4 has failed to perform the work assigned, the peace officer may,
5 without a warrant, retake the person into custody, or the court may
6 issue an arrest warrant for the retaking of the person into custody,
7 to complete the remainder of the original sentence. A peace officer
8 may not retake a person into custody under this subdivision,
9 without a warrant for arrest, unless the officer has a written order
10 to do so, signed by the sheriff or other person in charge of the
11 program, that describes with particularity the person to be retaken.

12 (d) This section does not require the sheriff or other official in
13 charge to assign a person to a program pursuant to this section if
14 it appears from the record that the person has refused to
15 satisfactorily perform as assigned or has not satisfactorily complied
16 with the reasonable rules and regulations governing the assignment
17 or any other order of the court.

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

21 ~~(e) The board of supervisors may prescribe a program~~
22 ~~administrative fee, not to exceed the pro rata cost of administration,~~
23 ~~to be paid by each person according to his or her ability to pay.~~

24 *SEC. 115. Section 5007.5 of the Penal Code is repealed.*

25 ~~5007.5. (a) The Director of Corrections is authorized to charge~~
26 ~~a fee in the amount of five dollars (\$5) for each inmate-initiated~~
27 ~~medical visit of an inmate confined in the state prison.~~

28 ~~(b) The fee shall be charged to the prison account of the inmate.~~
29 ~~If the inmate has no money in his or her personal account, there~~
30 ~~shall be no charge for the medical visit.~~

31 ~~(c) An inmate shall not be denied medical care because of a~~
32 ~~lack of funds in his or her prison account.~~

33 ~~(d) The medical provider may waive the fee for any~~
34 ~~inmate-initiated treatment and shall waive the fee in any~~
35 ~~life-threatening or emergency situation, defined as those health~~
36 ~~services required for alleviation of severe pain or for immediate~~
37 ~~diagnosis and treatment of unforeseen medical conditions that if~~
38 ~~not immediately diagnosed and treated could lead to disability or~~
39 ~~death.~~

1 ~~(e) Followup medical visits at the direction of the medical staff~~
2 ~~shall not be charged to the inmate.~~

3 ~~(f) All moneys received by the Director of Corrections pursuant~~
4 ~~to this section shall, upon appropriation by the Legislature, be~~
5 ~~expended to reimburse the Department of Corrections for direct~~
6 ~~provision of inmate health care services.~~

7 *SEC. 116. Section 5008.2 of the Penal Code is amended to*
8 *read:*

9 5008.2. (a) During the intake medical examination or intake
10 health screening, or while providing general information during
11 intake, the department shall provide all inmates with information
12 on hepatitis C, including, but not limited to, methods of hepatitis
13 C transmission and prevention, and information on opportunities
14 for screening and treatment while incarcerated. This subdivision
15 shall be implemented only to the extent that brochures, other
16 printed information, or other media is provided at no charge to the
17 department by public health agencies or any other organization
18 promoting hepatitis C education.

19 (b) The department shall also provide hepatitis C screening to
20 all inmates who request it, and offer it to inmates that have a history
21 of intravenous drug use or other risk factors for hepatitis C. This
22 testing shall be confidential. ~~The A medical copayment authorized~~
23 ~~in Section 5007.5 shall not be charged for hepatitis C testing,~~
24 ~~treatment, or any followup testing.~~

25 *SEC. 117. Section 6266 of the Penal Code is repealed.*

26 ~~6266. The director may charge the inmate in a work furlough~~
27 ~~program reasonable fees, based on ability to pay for room, board,~~
28 ~~and so much of the costs of administration as are allocable to the~~
29 ~~inmate. Fees may not exceed the actual, demonstrable costs to the~~
30 ~~department. No fees shall be collected from an inmate after his or~~
31 ~~her tenure in a work furlough program is terminated.~~

32 ~~Notwithstanding any other provision of law, no inmate shall be~~
33 ~~denied placement in a work furlough program on the basis of~~
34 ~~inability to pay fees authorized by this section.~~

35 *SEC. 118. Section 11208 of the Vehicle Code is amended to*
36 *read:*

37 11208. (a) The department shall charge a fee, to be determined
38 by the department, for the following traffic violator school program
39 activities:

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

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

5 (3) Issuance of a duplicate or corrected traffic violator school
6 owner, operator, instructor, and branch or classroom location
7 license.

8 (4) Transfer of an operator or instructor license from one traffic
9 violator school to another.

10 (5) Approval of curriculum, based on the instructional modality
11 of the curriculum.

12 (6) Fees for administering the examinations pursuant to Sections
13 11206 and 11207.

14 (b) The fees authorized under subdivision (a) shall be sufficient
15 to defray the ~~actual~~ *reasonable* cost to the department to administer
16 the traffic violator school program, except for routine monitoring
17 of instruction.

18 ~~(e) A single administrative fee shall be assessed against, and
19 collected by the court pursuant to Section 42007.1 from, each
20 driver who is allowed or ordered to attend traffic violator school.
21 Included in this fee shall be an amount determined by the
22 department to be sufficient to defray the cost of routine monitoring
23 of traffic violator school instruction.~~

24 ~~(d) This section shall become operative on September 1, 2011.~~

25 *SEC. 119. Section 13386 of the Vehicle Code, as added by*
26 *Section 22 of Chapter 783 of the Statutes of 2016, is amended to*
27 *read:*

28 13386. (a) (1) The department shall certify or cause to be
29 certified ignition interlock devices required by Article 5
30 (commencing with Section 23575) of Chapter 2 of Division 11.5
31 and publish a list of approved devices.

32 (2) (A) The department shall ensure that ignition interlock
33 devices that have been certified according to the requirements of
34 this section continue to meet certification requirements. The
35 department may periodically require manufacturers to indicate in
36 writing whether the devices continue to meet certification
37 requirements.

38 (B) The department may use denial of certification, suspension
39 or revocation of certification, or decertification of an ignition
40 interlock device in another state as an indication that the

1 certification requirements are not met, if either of the following
2 apply:

3 (i) The denial of certification, suspension or revocation of
4 certification, or decertification in another state constitutes a
5 violation by the manufacturer of Article 2.55 (commencing with
6 Section 125.00) of Chapter 1 of Division 1 of Title 13 of the
7 California Code of Regulations.

8 (ii) The denial of certification for an ignition interlock device
9 in another state was due to a failure of an ignition interlock device
10 to meet the standards adopted by the regulation set forth in clause
11 (i), specifically Sections 1 and 2 of the model specification for
12 breath alcohol ignition interlock devices, as published by notice
13 in the Federal Register, Vol. 57, No. 67, Tuesday, April 7, 1992,
14 on pages 11774 to 11787, inclusive, or the Model Specifications
15 for Breath Alcohol Ignition Interlock Devices, as published by
16 notice in the Federal Register, Vol. 78, No. 89, Wednesday, May
17 8, 2013, on pages 25489 to 26867, inclusive.

18 (C) Failure to continue to meet certification requirements shall
19 result in suspension or revocation of certification of ignition
20 interlock devices.

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

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

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

31 (d) The department shall utilize information from an
32 independent, accredited (ISO/IEC 17025) laboratory to certify
33 ignition interlock devices of the manufacturer or manufacturer's
34 agent, in accordance with the guidelines. The cost of certification
35 shall be borne by the manufacturers of ignition interlock devices.
36 If the certification of a device is suspended or revoked, the
37 manufacturer of the device shall be responsible for, and shall bear
38 the cost of, the removal of the device and the replacement of a
39 certified device of the manufacturer or another manufacturer.

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

5 (f) All manufacturers of ignition interlock devices that meet the
6 requirements of subdivision (e) and are certified in a manner
7 approved by the department, who intend to sell the devices in this
8 state, first shall apply to the department on forms provided by that
9 department. The application shall be accompanied by a fee in an
10 amount not to exceed the amount necessary to cover the costs
11 incurred by the department in carrying out this section.

12 (g) The department shall ensure that standard forms and
13 procedures are developed for documenting decisions and
14 compliance and communicating results to relevant agencies. These
15 forms shall include all of the following:

16 (1) An “Option to Install,” to be sent by the department to repeat
17 offenders along with the mandatory order of suspension or
18 revocation. This shall include the alternatives available for early
19 license reinstatement with the installation of an ignition interlock
20 device and shall be accompanied by a toll-free telephone number
21 for each manufacturer of a certified ignition interlock device.
22 Information regarding approved installation locations shall be
23 provided to drivers by manufacturers with ignition interlock devices
24 that have been certified in accordance with this section.

25 (2) A “Verification of Installation” to be returned to the
26 department by the reinstating offender upon application for
27 reinstatement. Copies shall be provided for the manufacturer or
28 the manufacturer’s agent.

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

34 ~~(h) Every manufacturer and manufacturer’s agent certified by~~
35 ~~the department to provide ignition interlock devices shall adopt~~
36 ~~fee schedules that provide for the payment of the costs of the device~~
37 ~~by applicants in amounts commensurate with the applicant’s ability~~
38 ~~to pay.~~

39 (i)

1 (h) A person who manufactures, installs, services, or repairs,
2 or otherwise deals in ignition interlock devices shall not disclose,
3 sell, or transfer to a third party any individually identifiable
4 information pertaining to individuals who are required by law to
5 install an ignition interlock device on a vehicle that ~~he or she~~ *the*
6 *individual* owns or operates, except to the extent necessary to
7 confirm or deny that an individual has complied with ignition
8 interlock device installation and maintenance requirements.

9 (j)

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

11 *SEC. 120. Section 21212 of the Vehicle Code is amended to*
12 *read:*

13 21212. (a) A person under 18 years of age shall not operate a
14 bicycle, a nonmotorized scooter, or a skateboard, nor wear in-line
15 or roller skates, nor ride upon a bicycle, a nonmotorized scooter,
16 or a skateboard as a passenger, upon a street, bikeway, as defined
17 in Section 890.4 of the Streets and Highways Code, or any other
18 public bicycle path or trail unless that person is wearing a properly
19 fitted and fastened bicycle helmet that meets the standards of either
20 the American Society for Testing and Materials (ASTM) or the
21 United States Consumer Product Safety Commission (CPSC), or
22 standards subsequently established by those entities. This
23 requirement also applies to a person who rides upon a bicycle
24 while in a restraining seat that is attached to the bicycle or in a
25 trailer towed by the bicycle.

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

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

36 (d) A charge under this section shall be dismissed when the
37 person charged alleges in court, under oath, that the charge against
38 the person is the first charge against that person under this section,
39 unless it is otherwise established in court that the charge is not the
40 first charge against the person.

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

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

8 (f) A record of the action shall not be transmitted to the court
9 ~~and a fee shall not be imposed pursuant to Section 40611~~ upon a
10 citation for not wearing a properly fitted and fastened bicycle
11 helmet pursuant to subdivision (a) if the parent or legal guardian
12 of the person described in subdivision (a) delivers proof to the
13 issuing agency within 120 days after the citation was issued that
14 the person has a helmet meeting the requirements specified in
15 subdivision (a) and the person has completed a local bicycle safety
16 course or a related safety course, if one is available, as prescribed
17 by authorities in the local jurisdiction.

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

21 (1) Seventy-two and one-half percent of the amount collected
22 shall be deposited in a special account of the county health
23 department, to be used for bicycle, nonmotorized scooter,
24 skateboard, and in-line and roller skate safety education and for
25 assisting low-income families in obtaining approved bicycle
26 helmets for children under the age of 18 years, either on a loan or
27 purchase basis. The county may contract for the implementation
28 of this program, which, to the extent practicable, shall be operated
29 in conjunction with the child passenger restraint program pursuant
30 to Section 27360.

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

34 (3) If the violation occurred within a city, 25 percent of the
35 amount collected shall be transferred to, and deposited in, the
36 treasury of that city. If the violation occurred in an unincorporated
37 area, this 25 percent shall be deposited and used pursuant to
38 paragraph (1).

1 *SEC. 121. Section 23573 of the Vehicle Code, as amended by*
2 *Section 23 of Chapter 485 of the Statutes of 2017, is amended to*
3 *read:*

4 23573. (a) The Department of Motor Vehicles, upon receipt
5 of the court's abstract of conviction for a violation listed in
6 subdivision (j), shall inform the convicted person of the
7 requirements of this section and the term for which the person is
8 required to have a functioning, certified ignition interlock device
9 installed. The records of the department shall reflect the mandatory
10 use of the device for the term required and the time when the device
11 is required to be installed pursuant to this code.

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

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

18 ~~(1)~~

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

22 ~~(2)~~

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

26 ~~(3) Pay to the department a fee sufficient to cover the costs of~~
27 ~~administration of this section, including startup costs, as determined~~
28 ~~by the department.~~

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

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

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

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

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

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

15 (ii) The person does not have access to a vehicle at ~~his or her~~
16 *the person's* residence.

17 (iii) The person no longer has access to the vehicle being driven
18 by the person when ~~he or she~~ *the person* was arrested for a violation
19 that subsequently resulted in a conviction for a violation listed in
20 subdivision (j).

21 (iv) The person acknowledges that ~~he or she~~ *the person* is only
22 allowed to drive a vehicle that is fitted with a functioning, certified
23 ignition interlock device and that ~~he or she~~ *the person* is required
24 to have a valid driver's license before ~~he or she~~ *the person* can
25 drive.

26 (v) The person is subject to the requirements of this section
27 when ~~he or she~~ *the person* purchases or has access to a vehicle.

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

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

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

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

39 (i) A person who is required under subdivision (c) to install a
40 functioning, certified ignition interlock device who willfully fails

1 to install the ignition interlock device within the time period
2 required under subdivision (c) is guilty of a misdemeanor and shall
3 be punished by imprisonment in a county jail for not more than
4 six months or by a fine of not more than five thousand dollars
5 (\$5,000), or by both that fine and imprisonment.

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

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

15 (2) Upon a conviction of a violation of Section 14601.2,
16 14601.4, or 14601.5 subsequent to two prior convictions of a
17 violation of Section 23103.5, 23152, or 23153, within a 10-year
18 period, or one prior conviction of Section 14601.2, 14601.4, or
19 14601.5, within a 10-year period, the person shall immediately
20 install a functioning, certified ignition interlock device, pursuant
21 to this section, in all vehicles operated by that person for a term
22 of two years.

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

31 (k) The department shall notify the court if a person subject to
32 this section has failed to show proof of installation within 30 days
33 of the department informing the person ~~he or she is~~ *they are*
34 required to install a functioning, certified ignition interlock device.

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

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

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

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

4 *SEC. 122. Section 23573 of the Vehicle Code, as amended by*
5 *Section 24 of Chapter 485 of the Statutes of 2017, is amended to*
6 *read:*

7 23573. (a) The Department of Motor Vehicles, upon receipt
8 of the court’s abstract of conviction for a violation listed in
9 subdivision (j), shall inform the convicted person of the
10 requirements of this section and the term for which the person is
11 required to have a functioning, certified ignition interlock device
12 installed. The records of the department shall reflect the mandatory
13 use of the device for the term required and the time when the device
14 is required to be installed pursuant to this code.

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

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

21 ~~(1)~~

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

25 ~~(2)~~

26 (B) Notify the department and provide to the department proof
27 of installation by submitting the “Verification of Installation” form
28 described in paragraph (2) of subdivision (g) of Section 13386.

29 ~~(3) Pay to the department a fee sufficient to cover the costs of~~
30 ~~administration of this section, including startup costs, as determined~~
31 ~~by the department.~~

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

34 (d) The department shall place a restriction on the driver’s
35 license record of the convicted person that states the driver is
36 restricted to driving only vehicles equipped with a functioning,
37 certified ignition interlock device.

38 (e) (1) A person who is notified by the department pursuant to
39 subdivision (a) shall arrange for each vehicle with an ignition
40 interlock device to be serviced by the installer at least once every

1 60 days in order for the installer to recalibrate and monitor the
2 operation of the device.

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

8 (f) The department shall monitor the installation and
9 maintenance of the ignition interlock device installed pursuant to
10 subdivision (a).

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

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

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

17 (ii) The person does not have access to a vehicle at ~~his or her~~
18 *the person's* residence.

19 (iii) The person no longer has access to the vehicle being driven
20 by the person when ~~he or she~~ *the person* was arrested for a violation
21 that subsequently resulted in a conviction for a violation listed in
22 subdivision (j).

23 (iv) The person acknowledges that ~~he or she~~ *the person* is only
24 allowed to drive a vehicle that is fitted with a functioning, certified
25 ignition interlock device and that ~~he or she~~ *the person* is required
26 to have a valid driver's license before ~~he or she~~ *the person* can
27 drive.

28 (v) The person is subject to the requirements of this section
29 when ~~he or she~~ *the person* purchases or has access to a vehicle.

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

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

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

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

1 (i) A person who is required under subdivision (c) to install a
2 functioning, certified ignition interlock device who willfully fails
3 to install the ignition interlock device within the time period
4 required under subdivision (c) is guilty of a misdemeanor and shall
5 be punished by imprisonment in a county jail for not more than
6 six months or by a fine of not more than five thousand dollars
7 (\$5,000), or by both that fine and imprisonment.

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

11 (1) Upon a conviction of a violation of Section 14601.2,
12 14601.4, or 14601.5 subsequent to one prior conviction of a
13 violation of Section 23103.5, 23152, or 23153, within a 10-year
14 period, the person shall immediately install a functioning, certified
15 ignition interlock device, pursuant to this section, in all vehicles
16 operated by that person for a term of one year.

17 (2) Upon a conviction of a violation of Section 14601.2,
18 14601.4, or 14601.5 subsequent to two prior convictions of a
19 violation of Section 23103.5, 23152, or 23153, within a 10-year
20 period, or one prior conviction of Section 14601.2, 14601.4, or
21 14601.5, within a 10-year period, the person shall immediately
22 install a functioning, certified ignition interlock device, pursuant
23 to this section, in all vehicles operated by that person for a term
24 of two years.

25 (3) Upon a conviction of a violation of Section 14601.2,
26 14601.4, or 14601.5 subsequent to three or more prior convictions
27 of a violation of Section 23103.5, 23152, or 23153, within a
28 10-year period, or two or more prior convictions of Section
29 14601.2, 14601.4, or 14601.5, within a 10-year period, the person
30 shall immediately install a functioning, certified ignition interlock
31 device, pursuant to this section, in all vehicles operated by that
32 person for a term of three years.

33 (k) The department shall notify the court if a person subject to
34 this section has failed to show proof of installation within 30 days
35 of the department informing the person ~~he or she is~~ *they are*
36 required to install a functioning, certified ignition interlock device.

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

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

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

2 *SEC. 123. Section 23575.3 of the Vehicle Code is amended to*
3 *read:*

4 23575.3. (a) In addition to any other requirement imposed by
5 law, a court shall notify a person convicted of a violation listed in
6 subdivision (h) that ~~he or she~~ *the person* is required to install a
7 functioning, certified ignition interlock device on any vehicle that
8 the person operates and that ~~he or she~~ *the person* is prohibited from
9 operating a motor vehicle unless that vehicle is equipped with a
10 functioning, certified ignition interlock device in accordance with
11 this section.

12 (b) The Department of Motor Vehicles, upon receipt of the
13 court's abstract of conviction for a violation listed in subdivision
14 (h), shall inform the convicted person of the requirements of this
15 section, including the term for which the person is required to have
16 a certified ignition interlock device installed. The records of the
17 department shall reflect the mandatory use of the device for the
18 term required and the time when the device is required to be
19 installed by this code.

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

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

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

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

31 ~~(C) Pay a fee, determined by the department, that is sufficient~~
32 ~~to cover the costs of administration of this section.~~

33 (2) A person who is notified by the department pursuant to
34 subdivision (b), is exempt from the requirements of this subdivision
35 until the time ~~he or she~~ *the person* purchases or has access to a
36 vehicle if, within 30 days of the notification, the person certifies
37 to the department all of the following:

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

39 (B) The person does not have access to a vehicle at ~~his or her~~
40 *the person's* residence.

1 (C) The person no longer has access to the vehicle ~~he or she~~ *the*
2 *person* was driving at the time ~~he or she~~ *the person* was arrested
3 for a violation that subsequently resulted in a conviction for a
4 violation listed in subdivision (h).

5 (D) The person acknowledges that ~~he or she~~ *the person* is only
6 allowed to drive a vehicle that is equipped with a functioning,
7 certified ignition interlock device.

8 (E) The person acknowledges that ~~he or she~~ *the person* is
9 required to have a valid driver's license before ~~he or she~~ *the person*
10 can drive.

11 (F) The person acknowledges that ~~he or she~~ *the person* is subject
12 to the requirements of this section when ~~he or she~~ *the person*
13 purchases or has access to a vehicle.

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

16 (e) In addition to any other restrictions the department places
17 on the driver's license record of the convicted person when the
18 person is issued a restricted driver's license pursuant to Section
19 13352 or 13352.4, the department shall place a restriction on the
20 driver's license record of the person that states the driver is
21 restricted to driving only vehicles equipped with a functioning,
22 certified ignition interlock device for the applicable term.

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

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

33 (g) The department shall monitor the installation and
34 maintenance of the ignition interlock device installed pursuant to
35 subdivision (d).

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

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

4 (A) Upon a conviction with no priors, punishable under Section
5 23536, only one of the following may occur:

6 (i) The court may order installation of a functioning, certified
7 ignition interlock device on any vehicle that the person operates
8 and prohibit that person from operating a motor vehicle unless that
9 vehicle is equipped with a functioning, certified ignition interlock
10 device. If the court orders the ignition interlock device restriction,
11 the term shall be determined by the court for a period not to exceed
12 six months from the date of conviction. The court shall notify the
13 department of the conviction as specified in subdivision (a) of
14 Section 1803 or Section 1816, and shall specify the terms of the
15 ignition interlock device restriction in accordance with subdivision
16 (a) of Section 1804. The department shall place the restriction on
17 the driver's license record of the person that states the driver is
18 restricted to driving only vehicles equipped with a functioning,
19 certified ignition interlock device for the applicable term.

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

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

25 (B) Upon a conviction with one prior, punishable under Section
26 23540, 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 12 months.

29 (C) Upon a conviction with two priors, punishable under Section
30 23546, the person shall install a functioning, certified ignition
31 interlock device in the vehicle, as ordered by the court, that is
32 operated by that person for a mandatory term of 24 months.

33 (D) Upon a conviction with three or more priors punishable
34 under Section 23550, or a conviction punishable under Section
35 23550.5, the person shall install a functioning, certified ignition
36 interlock device in the vehicle, as ordered by the court, that is
37 operated by that person for a mandatory term of 36 months.

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

1 (A) Upon a conviction with no priors, punishable under Section
2 23554, 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 12 months.

5 (B) Upon a conviction with one prior, punishable under Section
6 23560, the person shall install a functioning, certified ignition
7 interlock device in the vehicle, as ordered by the court, that is
8 operated by that person for a mandatory term of 24 months.

9 (C) Upon a conviction with two priors, punishable under Section
10 23550 or 23566, the person shall install a functioning, certified
11 ignition interlock device in the vehicle, as ordered by the court,
12 that is operated by that person for a mandatory term of 36 months.

13 (D) Upon a conviction with one prior punishable under Section
14 23550.5, 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 48 months.

17 (3) For the purposes of paragraphs (1) and (2), “prior” means
18 a conviction for a separate violation of Section 23103, as specified
19 in Section 23103.5, or Section 23152 or 23153, subdivision (a) or
20 (b) of Section 191.5 of, or subdivision (a) of Section 192.5 of, the
21 Penal Code, or subdivision (b), (c), (d), (e), or (f) of Section 655
22 of the Harbors and Navigation Code, that occurred within 10 years
23 of the current violation.

24 (4) The terms prescribed in this subdivision shall begin once a
25 person has complied with subparagraph (B) of paragraph (1) of
26 subdivision (d) and either upon the reinstatement of the privilege
27 to drive pursuant to Section 13352 or the issuance of a restricted
28 driver’s license pursuant to Section 13352. A person shall receive
29 credit for any period in which ~~he or she~~ *the person* had a restricted
30 driver’s license issued pursuant to Section 13353.6 or 13353.75.

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

33 (j) If a person fails to comply with any of the requirements
34 regarding ignition interlock devices, the period in which the person
35 was not in compliance shall not be credited towards the mandatory
36 term for which the ignition interlock device is required to be
37 installed.

38 ~~(k) (1) Every manufacturer and manufacturer’s agent certified~~
39 ~~by the department to provide ignition interlock devices, under~~
40 ~~Section 13386, shall adopt the following fee schedule that provides~~

1 for the payment of the costs of the certified ignition interlock
2 device by offenders subject to this chapter in amounts
3 commensurate with that person's income relative to the federal
4 poverty level, as defined in Section 127400 of the Health and
5 Safety Code:

6 (A) A person with an income at 100 percent of the federal
7 poverty level or below and who provides income verification
8 pursuant to paragraph (2) is responsible for 10 percent of the cost
9 of the manufacturer's standard ignition interlock device program
10 costs, and any additional costs accrued by the person for
11 noncompliance with program requirements.

12 (B) A person with an income at 101 to 200 percent of the federal
13 poverty level and who provides income verification pursuant to
14 paragraph (2) is responsible for 25 percent of the cost of the
15 manufacturer's standard ignition interlock device program costs,
16 and any additional costs accrued by the person for nonecompliance
17 with program requirements.

18 (C) A person with an income at 201 to 300 percent of the federal
19 poverty level and who provides income verification pursuant to
20 paragraph (2) is responsible for 50 percent of the cost of the
21 manufacturer's standard ignition interlock device program costs,
22 and any additional costs accrued by the person for nonecompliance
23 with program requirements.

24 (D) A person who is receiving CalFresh benefits and who
25 provides proof of those benefits to the manufacturer or
26 manufacturer's agent or authorized installer is responsible for 50
27 percent of the cost of the manufacturer's standard ignition interlock
28 device program costs, and any additional costs accrued by the
29 person for nonecompliance with program requirements.

30 (E) A person with an income at 301 to 400 percent of the federal
31 poverty level and who provides income verification pursuant to
32 paragraph (2) is responsible for 90 percent of the cost of the
33 manufacturer's standard ignition interlock device program costs,
34 and any additional costs accrued by the person for nonecompliance
35 with program requirements.

36 (F) All other offenders are responsible for 100 percent of the
37 cost of the ignition interlock device.

38 (G) The manufacturer is responsible for the percentage of costs
39 that the offender is not responsible for pursuant to subparagraphs

40 (A) to (E), inclusive.

1 ~~(2) The ignition interlock device provider shall verify the~~
2 ~~offender's income to determine the cost of the ignition interlock~~
3 ~~device pursuant to this subdivision by verifying one of the~~
4 ~~following documents from the offender:~~

5 ~~(A) The previous year's federal income tax return.~~

6 ~~(B) The previous three months of weekly or monthly income~~
7 ~~statements.~~

8 ~~(C) Employment Development Department verification of~~
9 ~~unemployment benefits.~~

10 ~~(d) The Department of Consumer Affairs may impose a civil~~
11 ~~assessment not to exceed one thousand dollars (\$1,000) upon a~~
12 ~~manufacturer or manufacturer's agent certified to provide ignition~~
13 ~~interlock devices who fails to inform an offender subject to this~~
14 ~~chapter of the provisions of subdivision (k), or who fails to comply~~
15 ~~with the provisions of subdivision (k).~~

16 ~~(m)~~

17 ~~(k) This section does not permit a person to drive without a valid~~
18 ~~driver's license.~~

19 ~~(n)~~

20 ~~(l) The requirements of this section are in addition to any other~~
21 ~~requirements of law.~~

22 ~~(o)~~

23 ~~(m) For the purposes of this section, the following definitions~~
24 ~~apply:~~

25 ~~(1) "Bypass" means either of the following:~~

26 ~~(A) Failure to take any random retest.~~

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

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

32 ~~(3) "Owned" means solely owned or owned in conjunction with~~
33 ~~another person or legal entity.~~

34 ~~(4) "Random retest" means a breath test performed by the driver~~
35 ~~upon a certified ignition interlock device at random intervals after~~
36 ~~the initial engine startup breath test and while the vehicle's motor~~
37 ~~is running.~~

38 ~~(5) "Vehicle" does not include a motorcycle until the state~~
39 ~~certifies an ignition interlock device that can be installed on a~~
40 ~~motorcycle. A person subject to an ignition interlock device~~

1 restriction shall not operate a motorcycle for the duration of the
2 ignition interlock device restriction period.

3 ~~(p)~~

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

7 ~~(q)~~

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

9 ~~(r)~~

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

13 *SEC. 124. Section 40508.5 of the Vehicle Code is repealed.*

14 ~~40508.5. (a) In addition to the fees authorized or required by
15 any other provision of law, a county may, by resolution of the
16 board of supervisors, require the courts of that county to impose
17 an assessment of fifteen dollars (\$15) upon every person who
18 violates his or her written promise to appear or a lawfully granted
19 continuance of his or her promise to appear in court or before a
20 person authorized to receive a deposit of bail, or who otherwise
21 fails to comply with any valid court order for a violation of any
22 provision of this code or local ordinance adopted pursuant to this
23 code. This assessment shall apply whether or not a violation of
24 Section 40508 is concurrently charged or a warrant of arrest is
25 issued pursuant to Section 40515.~~

26 ~~(b) The courts subject to subdivision (a) shall increase the bail
27 schedule amounts to reflect the amount of the assessment imposed
28 by this section.~~

29 ~~(c) If bail is returned, the amount of the assessment shall also
30 be returned, but only if the person did not violate his or her promise
31 to appear or citation following a lawfully granted continuance.~~

32 ~~(d) The clerk of the court shall deposit the amounts collected
33 under this section in the county treasury. All money so deposited
34 shall be used first for the development and operation of an
35 automated county warrant system. If sufficient funds are available
36 after appropriate expenditures to develop, modernize, and maintain
37 the automated warrant system, a county may use the balance to
38 fund a warrant service task force for the purpose of serving all
39 bench warrants within the county.~~

40 *SEC. 125. Section 40508.6 of the Vehicle Code is repealed.*

1 ~~40508.6. The superior court in any county may establish~~
2 ~~administrative assessments, not to exceed ten dollars (\$10), for~~
3 ~~clerical and administrative costs incurred for the following~~
4 ~~activities:~~

5 (a) ~~An assessment for the cost of recording and maintaining a~~
6 ~~record of the defendant's prior convictions for violations of this~~
7 ~~code. The assessment shall be payable at the time of payment of~~
8 ~~a fine or when bail is forfeited for any subsequent violations of~~
9 ~~this code other than parking, pedestrian, or bicycle violations.~~

10 (b) ~~An assessment for all defendants whose driver's license or~~
11 ~~automobile registration is attached or restricted pursuant to Section~~
12 ~~40509 or 40509.5, to cover the cost of notifying the Department~~
13 ~~of Motor Vehicles of the attachment or restriction.~~

14 *SEC. 126. Section 40509 of the Vehicle Code is amended to*
15 *read:*

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

34 (b) (1) Notwithstanding subdivision (a), the court may notify
35 the department of the total amount of bail, fines, ~~assessments, and~~
36 ~~fees and assessments~~ authorized or required by this code, ~~including~~
37 ~~Section 40508.5, code~~ that are unpaid by a person.

38 (2) Once a court has established the amount of bail, fines,
39 ~~assessments, and fees, and assessments~~ and notified the department,
40 the court shall not further enhance or modify that amount.

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

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

8 *SEC. 127. Section 40510.5 of the Vehicle Code is amended to*
9 *read:*

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

17 (1) The defendant is charged with an infraction violation of this
18 code or an infraction violation of an ordinance adopted pursuant
19 to this code.

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

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

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

28 (b) When a clerk accepts an agreement for payment and
29 forfeiture of bail in installments, the clerk shall continue the
30 appearance date of the defendant to the date to complete payment
31 and forfeiture of bail in the agreement.

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

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

1 ~~(e) When the defendant fails to make an installment payment~~
2 ~~according to an agreement under subdivision (a) above, the court~~
3 ~~may charge a failure to appear or pay under Section 40508 and~~
4 ~~impose a civil assessment as provided in Section 1214.1 of the~~
5 ~~Penal Code or issue an arrest warrant for a failure to appear.~~

6 ~~(f)~~

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

10 ~~(g) The defendant shall pay to the clerk of the court or the~~
11 ~~collecting agency a fee for the processing of installment accounts.~~
12 ~~This fee shall equal the administrative and clerical costs, as~~
13 ~~determined by the board of supervisors or by the court, except that~~
14 ~~the fee shall not exceed thirty-five dollars (\$35).~~

15 *SEC. 128. Section 40512 of the Vehicle Code is amended to*
16 *read:*

17 40512. (a) (1) Except as specified in paragraph (2) and
18 subdivision (b), if at the time the case is called for arraignment
19 before the magistrate the defendant does not appear, either in
20 person or by counsel, the magistrate may declare the bail forfeited
21 and may, ~~in his or her~~ *the magistrate's* discretion, order that no
22 further proceedings be had in the case, unless the defendant has
23 been charged with a violation of Section 23111 or 23112, or
24 subdivision (a) of Section 23113, and ~~he or she~~ has been previously
25 convicted of the same offense, except if the magistrate finds that
26 undue hardship will be imposed upon the defendant by requiring
27 ~~him or her~~ *the defendant* to appear, the magistrate may declare the
28 bail forfeited and order that no further proceedings shall be had in
29 the case.

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

36 (b) (1) If, at the time the case is called for a compliance
37 appearance before the magistrate, the defendant has entered into
38 a bail installment agreement pursuant to Section 40510.5 but has
39 not made an installment payment as agreed and does not appear,
40 either in person or by counsel, the court may continue the

1 arraignment to a date beyond the last agreed upon installment
 2 payment, ~~issue a warrant of arrest, or impose a civil assessment~~
 3 ~~as provided in Section 1214.1 of the Penal Code for the failure to~~
 4 ~~appear.~~ *payment or issue a warrant of arrest.*

5 (2) If, at the time the case is called for a compliance appearance
 6 before the magistrate, the defendant has paid all required bail funds
 7 and the defendant does not appear, either in person or by counsel,
 8 the court may order that no further proceedings shall be had in the
 9 case, unless the defendant has been charged with a violation of
 10 Section 23111 or 23112, or subdivision (a) of Section 23113, and
 11 ~~he or she~~ has been previously convicted of the same offense, except
 12 that if the magistrate finds that undue hardship will be imposed
 13 upon the defendant by requiring ~~him or her~~ *the defendant* to appear,
 14 the magistrate may order that no further proceedings shall be had
 15 in the case.

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

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

23 (e) Upon presentation by a court of the bill for a fine or bail
 24 assessed against an individual covered by a guaranteed traffic
 25 arrest bail bond certificate, the issuer shall pay to the court the
 26 amount of the fine or forfeited bail that is within the maximum
 27 amount guaranteed by the terms of the certificate.

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

31 *SEC. 129. Section 40611 of the Vehicle Code is repealed.*

32 ~~40611. (a) Upon proof of correction of an alleged violation of~~
 33 ~~Section 12500 or 12951, or any violation cited pursuant to Section~~
 34 ~~40610, or upon submission of evidence of financial responsibility~~
 35 ~~pursuant to subdivision (e) of Section 16028, the clerk shall collect~~
 36 ~~a twenty-five-dollar (\$25) transaction fee for each violation. The~~
 37 ~~fees shall be deposited by the clerk in accordance with Section~~
 38 ~~68084 of the Government Code.~~

39 ~~(b) (1) For each citation, ten dollars (\$10) shall be allocated~~
 40 ~~monthly as follows:~~

1 ~~(A) Thirty-three percent shall be transferred to the local~~
2 ~~governmental entity in whose jurisdiction the citation was issued~~
3 ~~for deposit in the general fund of the entity.~~

4 ~~(B) Thirty-four percent shall be transferred to the State Treasury~~
5 ~~for deposit in the State Penalty Fund established by Section 1464~~
6 ~~of the Penal Code.~~

7 ~~(C) Thirty-three percent shall be deposited in the county general~~
8 ~~fund.~~

9 ~~(2) The remainder of the fees collected on each citation shall~~
10 ~~be deposited in the Immediate and Critical Needs Account of the~~
11 ~~State Court Facilities Construction Fund, established in Section~~
12 ~~70371.5 of the Government Code.~~

13 ~~(e) No fee shall be imposed pursuant to this section if the~~
14 ~~violation notice is processed only by the issuing agency and no~~
15 ~~record of the action is transmitted to the court.~~

16 *SEC. 130. Section 42003 of the Vehicle Code is amended to*
17 *read:*

18 42003. (a) A judgment that a person convicted of an infraction
19 be punished by a fine may also provide for the payment to be made
20 within a specified time or in specified installments. A judgment
21 granting a defendant time to pay the fine shall order that if the
22 defendant fails to pay the fine or any installment thereof on the
23 date that it is due, ~~he or she~~ *the defendant* shall appear in court on
24 that date for further proceedings. Willful violation of the order is
25 punishable as contempt.

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

34 (c) In any case when a person appears before a traffic referee
35 or judge of the superior court for adjudication of a violation of this
36 code, the court, upon request of the defendant, shall consider the
37 defendant's ability to ~~pay.~~ *pay the fine*. Consideration of a
38 defendant's ability to pay *the fine* may include ~~his or her~~ *the*
39 *defendant's* future earning capacity. A defendant shall bear the
40 burden of demonstrating lack of ~~his or her~~ *the defendant's* ability

1 to pay. Express findings by the court as to the factors bearing on
2 the amount of the fine shall not be required. ~~The reasonable cost~~
3 ~~of these services and of probation shall not exceed the amount~~
4 ~~determined to be the actual average cost thereof.~~ The court shall
5 order the defendant to appear before a county officer designated
6 by the court to make an inquiry into the ability of the defendant
7 to pay all or a portion of ~~those costs or the court or traffic referee~~
8 ~~may make this determination at a hearing.~~ *the fine.* At that hearing,
9 the defendant shall be entitled to have, but shall not be limited to,
10 the opportunity to be heard in person, to present witnesses and
11 other documentary evidence, to confront and cross-examine adverse
12 witnesses, to disclosure of the evidence against ~~him or her,~~ *them,*
13 and to a written statement of the findings of the court or the county
14 officer. If the court determines that the defendant has the ability
15 to pay all or part of the costs, the court shall set the amount to be
16 reimbursed and order the defendant to pay that sum to the county
17 in the manner in which the court believes reasonable and
18 compatible with the defendant's financial ability; or, with the
19 consent of a defendant who is placed on probation, the court shall
20 order the probation officer to set the amount of payment, which
21 shall not exceed the maximum amount set by the court, and the
22 manner in which the payment shall be made to the county. In
23 making a determination of whether a defendant has the ability to
24 pay, the court shall take into account ~~the amount of any fine~~
25 ~~imposed upon the defendant and any amount the defendant has~~
26 ~~been ordered to pay in restitution.~~

27 The court may hold additional hearings during the probationary
28 period. If practicable, the court or the probation officer shall order
29 payments to be made on a monthly basis. Execution may be issued
30 on the order in the same manner as a judgment in a civil action.
31 The order to pay all or part of the costs shall not be enforced by
32 contempt.

33 ~~A payment schedule for reimbursement of the costs of~~
34 ~~presentence investigation based on income shall be developed by~~
35 ~~the probation department of each county and approved by the~~
36 ~~presiding judge of the superior court.~~

37 (d) The term "ability to pay" means the overall capability of the
38 defendant to ~~reimburse the costs, or a portion of the costs, of~~
39 ~~conducting the presentence investigation, preparing the presentence~~
40 ~~report, and probation,~~ *pay the fine or a portion of the fine* and

1 includes, but is not limited to, all of the following regarding the
2 defendant:

3 (1) Present financial position.

4 (2) Reasonably discernible future financial position. In no event
5 shall the court consider a period of more than six months from the
6 date of the hearing for purposes of determining reasonably
7 discernible future financial position.

8 (3) Likelihood that the defendant will be able to obtain
9 employment within the six-month period from the date of the
10 hearing.

11 (4) Any other factors that may bear upon the defendant's
12 financial capability to ~~reimburse the county for the costs.~~ *pay the*
13 *fine.*

14 (e) At any time during the pendency of the judgment rendered
15 according to the terms of this section, a defendant against whom
16 a judgment has been rendered may petition the rendering court to
17 modify or vacate its previous judgment on the grounds of a change
18 of circumstances with regard to the defendant's ability to pay the
19 judgment. The court shall advise the defendant of this right at the
20 time of rendering of the judgment.

21 *SEC. 131. Section 42007 of the Vehicle Code is amended to*
22 *read:*

23 42007. (a) (1) The clerk of the court shall collect a fee from
24 every person who is ordered or permitted to attend a traffic violator
25 school pursuant to Section 41501 or 42005 in an amount equal to
26 the total bail set forth for the eligible offense on the uniform
27 countywide bail schedule. As used in this subdivision, "total bail"
28 means the amount established pursuant to Section 1269b of the
29 Penal Code in accordance with the Uniform Bail and Penalty
30 Schedule adopted by the Judicial Council, including all
31 assessments, surcharges, and penalty amounts. Where multiple
32 offenses are charged in a single notice to appear, the "total bail"
33 is the amount applicable for the greater of the qualifying offenses.
34 However, the court may determine a lesser fee under this
35 subdivision upon a showing that the defendant is unable to pay
36 the full amount.

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

39 (2) The clerk may accept from a defendant who is ordered or
40 permitted to attend traffic violator school a payment of at least 10

1 percent of the fee required by paragraph (1) upon filing a written
2 agreement by the defendant to pay the remainder of the fee
3 according to an installment payment schedule of no more than 90
4 days as agreed upon with the court. The Judicial Council shall
5 prescribe the form of the agreement for payment of the fee in
6 installments. When the defendant signs the Judicial Council form
7 for payment of the fee in installments, the court shall continue the
8 case to the date in the agreement to complete payment of the fee
9 and submit the certificate of completion of traffic violator school
10 to the court. ~~The clerk shall collect a fee of up to thirty-five dollars~~
11 ~~(\$35) to cover administrative and clerical costs for processing an~~
12 ~~installment payment of the traffic violator school fee under this~~
13 ~~paragraph.~~

14 (3) If a defendant fails to make an installment payment of the
15 fee according to an installment agreement, the court may convert
16 the fee to bail, declare it forfeited, and report the forfeiture as a
17 conviction under Section 1803. The court may also charge a failure
18 to pay under Section 40508 ~~and impose a civil assessment as~~
19 ~~provided in Section 1214.1 of the Penal Code~~ or issue an arrest
20 warrant for a failure to pay. For the purposes of reporting a
21 conviction under this subdivision to the department under Section
22 1803, the date that the court declares the bail forfeited shall be
23 reported as the date of conviction.

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

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

32 (2) In any county that has established a Maddy Emergency
33 Medical Services Fund pursuant to Section 1797.98a of the Health
34 and Safety Code, an amount equal to the sum of each two dollars
35 (\$2) for every seven dollars (\$7) that would have been collected
36 pursuant to Section 76000 of the Government Code and,
37 commencing January 1, 2009, an amount equal to the sum of each
38 two dollars (\$2) for every ten dollars (\$10) that would have been
39 collected pursuant to Section 76000.5 of the Government Code
40 with respect to those counties to which that section is applicable

1 shall be deposited in that fund. Nothing in the act that added this
2 paragraph shall be interpreted in a manner that would result in
3 either of the following:

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

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

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

15 (c) For fees resulting from city arrests, an amount equal to the
16 amount of base fines that would have been deposited in the treasury
17 of the appropriate city pursuant to paragraph (3) of subdivision
18 (b) of Section 1463.001 of the Penal Code shall be deposited in
19 the treasury of the appropriate city.

20 (d) The clerk of the court, in a county that offers traffic school
21 shall include in any courtesy notice mailed to a defendant for an
22 offense that qualifies for traffic school attendance the following
23 statement:

24
25 NOTICE: If you are eligible and decide not to attend traffic
26 school your automobile insurance may be adversely affected. For
27 drivers with a noncommercial driver's license, one conviction in
28 any 18-month period will be held confidential and not show on
29 your driving record if you complete a traffic violator school
30 program. For drivers with a commercial driver's license, one
31 conviction in any 18-month period will show on your driving
32 record without a violation point if you complete a traffic violator
33 school program.

34
35 (e) Notwithstanding any other provision of law, a county that
36 has established a Maddy Emergency Medical Services Fund
37 pursuant to Section 1797.98a of the Health and Safety Code shall
38 not be held liable for having deposited into the fund, prior to
39 January 1, 2009, an amount equal to two dollars (\$2) for every ten
40 dollars (\$10) that would have been collected pursuant to Section

1 76000.5 of the Government Code from revenues derived from
2 traffic violator school fees collected pursuant to this section.

3 *SEC. 132. Section 42007.1 of the Vehicle Code is amended to*
4 *read:*

5 42007.1. (a) The amount collected by the clerk pursuant to
6 subdivision (a) of Section 42007 shall be in an amount equal to
7 the total bail set forth for the eligible offense on the uniform
8 countywide bail schedule plus a forty-nine-dollar (\$49) fee, and a
9 fee determined by the department to be sufficient to defray the
10 cost of routine monitoring of traffic violator school instruction
11 pursuant to subdivision (c) of Section 11208, and a fee, if any,
12 established by the court pursuant to subdivision (c) of Section
13 11205.2 to defray the costs incurred by a traffic assistance program.
14 *schedule.*

15 (b) ~~Notwithstanding subdivision (b) of Section 42007, the~~
16 ~~revenue from the forty-nine-dollar (\$49) fee collected under this~~
17 ~~section shall be deposited in the county general fund. Fifty-one~~
18 ~~percent of the amount collected under this section and deposited~~
19 ~~into the county general fund shall be transmitted therefrom monthly~~
20 ~~to the Controller for deposit in the Immediate and Critical Needs~~
21 ~~Account of the State Court Facilities Construction Fund,~~
22 ~~established in Section 70371.5 of the Government Code.~~

23 (c) ~~The fee assessed pursuant to subdivision (c) of Section 11208~~
24 ~~shall be allocated to the department to defray the costs of~~
25 ~~monitoring traffic violator school instruction.~~

26 *SEC. 133. Section 42007.3 of the Vehicle Code is amended to*
27 *read:*

28 42007.3. (a) ~~Notwithstanding Section 42007, revenues derived~~
29 ~~from fees collected under Section 42007 from each person required~~
30 ~~or permitted to attend traffic violator school pursuant to Section~~
31 ~~41501 or 42005 as a result of a violation of subdivision (a) or (c)~~
32 ~~of Section 21453, subdivision (c) of Section 21454, or subdivision~~
33 ~~(a) of Section 21457 shall be allocated as follows:~~

34 (1)

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

38 (2)

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

1 ~~(b) This section does not apply to the additional forty-nine-dollar~~
2 ~~(\$49) court administrative fee assessed pursuant to subdivision (e)~~
3 ~~of Section 11208 collected under subdivision (a) of Section~~
4 ~~42007.1.~~

5 *SEC. 134. Section 42007.4 of the Vehicle Code is amended to*
6 *read:*

7 42007.4. ~~(a)~~ Notwithstanding Section 42007, revenues derived
8 from fees collected under Section 42007 from each person required
9 or permitted to attend traffic violator school pursuant to Section
10 369b of the Penal Code as a result of a violation of subdivision (c)
11 of Section 21752, involving railroad grade crossings, or Section
12 22451 or 22452 shall be allocated as follows:

13 ~~(1)~~

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 ~~(2)~~

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

28 ~~(3)~~

29 *(c)* The balance of the amount collected shall be deposited by
30 the county treasurer under Section 1463 of the Penal Code.

31 ~~(4)~~

32 *(d)* A transit district, transportation commission, or a county
33 that is allocated funds pursuant to ~~paragraph (1) or (2) subdivision~~
34 *(a) or (b)* shall provide public safety and public education relating
35 to railroad grade crossings only to the extent that those purposes
36 are funded by the allocations provided pursuant to ~~paragraph (1)~~
37 ~~or (2) subdivision (a) or (b).~~

38 ~~(b) This section does not apply to the additional forty-nine-dollar~~
39 ~~(\$49) court administrative fee assessed pursuant to subdivision (e)~~

1 of Section 11208 collected under subdivision (a) of Section
2 42007.1.

3 SEC. 135. Section 42008.5 of the Vehicle Code is amended to
4 read:

5 42008.5. (a) A county may establish a one-time amnesty
6 program for fines and bail that have been delinquent for not less
7 than six months as of the date upon which the program commences
8 and were imposed for an infraction or misdemeanor violation of
9 this code, except parking violations of this code and violations of
10 Section 23103, 23104, 23105, 23152, or 23153.

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

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

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

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

24 (d) No criminal action shall be brought against a person for a
25 delinquent fine or bail paid under the amnesty program and no
26 other additional penalties, except as provided in Section 1214.1
27 of the Penal Code, penalties shall be assessed for the late payment
28 of the fine or bail made under the amnesty program.

29 (e) Notwithstanding Section 1463 of the Penal Code, the total
30 amount of funds collected by the courts pursuant to the amnesty
31 program shall be deposited in the county treasury until 150 percent
32 of the cost of operating the program, excluding capital
33 expenditures, have been so deposited. Thereafter, 37 percent of
34 the amount of the delinquent fines and bail deposited in the county
35 treasury shall be distributed by the county pursuant to Section 1464
36 of the Penal Code, 26 percent of the amount deposited shall be
37 distributed by the county pursuant to Article 2 (commencing with
38 Section 76100) of Chapter 12 of Title 8 of the Government Code,
39 and the remaining 37 percent of the amount deposited shall be
40 retained by the county.

1 (f) The deposit of fines and bails in the county treasury as
2 described in subdivision (e) is limited to the amnesty program
3 described in this section, and it is the intent of the Legislature that
4 it shall not be considered a precedent with respect to affecting
5 programs that receive funding pursuant to Section 1463 of the
6 Penal Code.

7 (g) Each county participating in the program shall file, not later
8 than six months after the termination of the program, a written
9 report with the Assembly Committee on Judiciary and the Senate
10 Committee on Judiciary. The report shall summarize the amount
11 of money collected, operating costs of the program, distribution
12 of funds collected, and when possible, how the funds were
13 expended.

14 *SEC. 136. Section 42008.7 of the Vehicle Code is amended to*
15 *read:*

16 42008.7. (a) The State of California continues to face a fiscal
17 and economic crisis affecting the State Budget and the overall state
18 economy. In light of this crisis, a one-time infraction amnesty
19 program would do the following:

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

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

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

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

36 (c) As used in this section, the term “fine” or “bail” refers to
37 the total amounts due in connection with a specific violation, which
38 include, but are not limited to, the following:

39 (1) Base fine or bail, as established by court order, by statute,
40 or by the court’s bail schedule.

1 (2) Penalty assessments imposed pursuant to Section 1464 of
2 the Penal Code and Sections 70372, 76000, 76000.5, 76104.6, and
3 76104.7 of the Government Code.

4 ~~(3) Civil assessment imposed pursuant to Section 1214.1 of the~~
5 ~~Penal Code.~~

6 ~~(4)~~

7 (3) State surcharge imposed pursuant to Section 1465.7 of the
8 Penal Code.

9 ~~(5)~~

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

12 (d) In addition to and at the same time as the mandatory one-time
13 amnesty program is established pursuant to subdivision (b), the
14 court and the county may jointly agree to extend that amnesty
15 program to fines and bail imposed for a misdemeanor violation of
16 this code and a violation of Section 853.7 of the Penal Code added
17 to the misdemeanor case otherwise subject to the amnesty. The
18 amnesty program authorized pursuant to this subdivision shall not
19 apply to parking violations and violations of Section 23103, 23104,
20 23105, 23152, or 23153 of this code.

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

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

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

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

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

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

34 (6) There are no outstanding misdemeanor or felony warrants
35 for the defendant within the county, except for misdemeanor
36 warrants for misdemeanor violations authorized by the court and
37 the county pursuant to subdivision (d).

38 (f) Each amnesty program shall accept, in full satisfaction of
39 any eligible fine or bail, 50 percent of the fine or bail amount, as
40 defined in subdivision (c) of this section. Payment of a fine or bail

1 under an amnesty program implemented pursuant to this section
2 shall be accepted beginning January 1, 2012, and ending June 30,
3 2012. The Judicial Council shall adopt guidelines for the amnesty
4 program no later than November 1, 2011, and each program shall
5 be conducted in accordance with Judicial Council guidelines.

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

8 (h) The total amount of funds collected under the amnesty
9 program shall as soon as practical after receipt thereof be deposited
10 in the county treasury or the account established under Section
11 77009 of the Government Code. Any unreimbursed costs of
12 operating the amnesty program, excluding capital expenditures,
13 may be deducted from the revenues collected under the amnesty
14 program by the court or the county that incurred the expense of
15 operating the program. Notwithstanding Section 1203.1d of the
16 Penal Code, the remaining revenues collected under the amnesty
17 program shall be distributed on a pro rata basis in the same manner
18 as a partial payment distributed pursuant to Section 1462.5 of the
19 Penal Code.

20 (i) Each court or county implementing an amnesty program
21 shall file, not later than September 30, 2012, a written report with
22 the Judicial Council, on a form approved by the Judicial Council.
23 The report shall include information about the number of cases
24 resolved, the amount of money collected, and the operating costs
25 of the amnesty program. Notwithstanding Section 10231.5 of the
26 Government Code, on or before December 31, 2012, the Judicial
27 Council shall submit a report to the Legislature summarizing the
28 information provided by each court or county.

29 *SEC. 137. Section 42008.8 of the Vehicle Code is amended to*
30 *read:*

31 42008.8. (a) The Legislature finds and declares that a one-time
32 infraction amnesty program would do all of the following:

33 (1) Provide relief to individuals who have found themselves in
34 violation of a court-ordered obligation because they have unpaid
35 traffic bail or fines.

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

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

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

3 (b) A one-time amnesty program for unpaid fines and bail
4 meeting the eligibility requirements set forth in subdivision (g)
5 shall be established in each county. Unless agreed otherwise by
6 the court and the county in writing, the government entities that
7 are responsible for the collection of delinquent court-ordered debt
8 shall be responsible for implementation of the amnesty program
9 as to that debt, maintaining the same division of responsibility in
10 place with respect to the collection of court-ordered debt under
11 subdivision (b) of Section 1463.010 of the Penal Code.

12 (c) As used in this section, the term “fine” or “bail” refers to
13 the total amounts due in connection with a specific violation,
14 including, but not limited to, all of the following:

15 (1) Base fine or bail, as established by court order, by statute,
16 or by the court’s bail schedule.

17 (2) Penalty assessments imposed pursuant to Section 1464 of
18 the Penal Code, and Sections 70372, 76000, 76000.5, 76104.6,
19 and 76104.7 of, and paragraph (1) of subdivision (c) of Section
20 76000.10 of, the Government Code, and Section 42006 of this
21 code.

22 (3) State surcharges imposed pursuant to Section 1465.7 of the
23 Penal Code.

24 (4) Court operations assessments imposed pursuant to Section
25 1465.8 of the Penal Code.

26 (5) Criminal conviction assessments pursuant to Section 70373
27 of the Government Code.

28 (d) Notwithstanding subdivision (c), any civil assessment
29 imposed pursuant to *former* Section 1214.1 of the Penal Code shall
30 not be collected, nor shall the payment of that assessment be a
31 requirement of participation in the amnesty program.

32 (e) Concurrent with the amnesty program established pursuant
33 to subdivision (b), between October 1, 2015, to March 31, 2017,
34 inclusive, the following shall apply:

35 (1) The court shall, within 90 days, issue and file the appropriate
36 certificate pursuant to subdivisions (a) and (b) of Section 40509
37 for any participant of the one-time amnesty program established
38 pursuant to subdivision (b) demonstrating that the participant has
39 appeared in court, paid the fine, or otherwise satisfied the court,
40 if the driving privilege of that participant was suspended pursuant

1 to Section 13365 in connection with a specific violation described
2 in paragraph (1), (2), or (3) of subdivision (g). For applications
3 submitted prior to January 1, 2017, that remain outstanding as of
4 that date, the court shall issue and file the certificate no later than
5 March 31, 2017. For applications submitted on or before March
6 31, 2017, all terms and procedures related to the participant's
7 payment plans shall remain in effect after March 31, 2017.

8 (2) The court shall, within 90 days, issue and file with the
9 department the appropriate certificate pursuant to subdivisions (a)
10 and (b) of Section 40509 for any person in good standing in a
11 comprehensive collection program pursuant to subdivision (c) of
12 Section 1463.007 of the Penal Code demonstrating that the person
13 has appeared in court, paid the fine, or otherwise satisfied the court,
14 if the driving privilege was suspended pursuant to Section 13365
15 in connection with a specific violation described in paragraph (1),
16 (2), or (3) of subdivision (g). For applications submitted prior to
17 January 1, 2017, that remain outstanding as of that date, the court
18 shall issue and file the certificate no later than March 31, 2017.
19 For applications submitted on or before March 31, 2017, all terms
20 and procedures related to the participant's payment plans shall
21 remain in effect after March 31, 2017.

22 (3) Any person who is eligible for a driver's license pursuant
23 to Section 12801, 12801.5, or 12801.9 shall be eligible for the
24 amnesty program established pursuant to subdivision (b) for any
25 specific violation described in subdivision (g). The department
26 shall issue a driver's license to any person who is eligible pursuant
27 to Section 12801, 12801.5, or 12801.9 if the person is participating
28 in the amnesty program and is otherwise eligible for the driver's
29 license but for the fines or bail to be collected through the program.

30 (4) The Department of Motor Vehicles shall not deny reinstating
31 the driving privilege of any person who participates in the amnesty
32 program established pursuant to subdivision (b) for any fines or
33 bail in connection with the specific violation that is the basis for
34 participation in the amnesty program.

35 (f) In addition to, and at the same time as, the mandatory
36 one-time amnesty program is established pursuant to subdivision
37 (b), the court and the county may jointly agree to extend that
38 amnesty program to fines and bail imposed for a misdemeanor
39 violation of this code and a violation of Section 853.7 of the Penal
40 Code that was added to the misdemeanor case otherwise subject

1 to the amnesty. The amnesty program authorized pursuant to this
2 subdivision shall not apply to parking violations and violations of
3 Sections 23103, 23104, 23105, 23152, and 23153.

4 (g) A violation is only eligible for amnesty if paragraph (1), (2),
5 or (3) applies, and the requirements of paragraphs (4) to (8),
6 inclusive, are met:

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

8 (2) It is a violation of subdivision (a) or (b) of Section 40508,
9 or a violation of Section 853.7 of the Penal Code that was added
10 to the case subject to paragraph (1).

11 (3) The violation is a misdemeanor violation filed with the court
12 to which subdivision (f) applies.

13 (4) The initial due date for payment of the fine or bail was on
14 or before January 1, 2013.

15 (5) There are no outstanding misdemeanor or felony warrants
16 for the defendant within the county, except for misdemeanor
17 warrants for misdemeanor violations subject to this section.

18 (6) The person does not owe victim restitution on any case
19 within the county.

20 (7) The person has not made any payments for the violation
21 after September 30, 2015, to a comprehensive collection program
22 in the county pursuant to subdivision (c) of Section 1463.007 of
23 the Penal Code.

24 (8) The person filed a request with the court on or before March
25 31, 2017.

26 (h) (1) Except as provided in paragraph (2), each amnesty
27 program shall accept, in full satisfaction of any eligible fine or
28 bail, 50 percent of the fine or bail amount, as defined in subdivision
29 (c).

30 (2) If the participant certifies under penalty of perjury that ~~he~~
31 ~~or she~~ *the participant* receives any of the public benefits listed in
32 subdivision (a) of Section 68632 of the Government Code or is
33 within the conditions described in subdivision (b) of Section 68632
34 of the Government Code, the amnesty program shall accept, in
35 full satisfaction of any eligible fine or bail, 20 percent of the fine
36 or bail amount, as defined in subdivision (c).

37 (i) The Judicial Council, in consultation with the California
38 State Association of Counties, shall adopt guidelines for the
39 amnesty program no later than October 1, 2015, and each program
40 shall be conducted in accordance with the Judicial Council's

1 guidelines. As part of its guidelines, the Judicial Council shall
2 include all of the following:

3 ~~(1) Each court or county responsible for implementation of the~~
4 ~~amnesty program pursuant to subdivision (b) shall recover costs~~
5 ~~pursuant to subdivision (a) of Section 1463.007 of the Penal Code~~
6 ~~and may charge an amnesty program fee of fifty dollars (\$50) that~~
7 ~~may be collected with the receipt of the first payment of a~~
8 ~~participant.~~

9 ~~(2)~~

10 (1) A payment plan option created pursuant to Judicial Council
11 guidelines in which a monthly payment is equal to the amount that
12 an eligible participant can afford to pay per month consistent with
13 Sections 68633 and 68634 of the Government Code. If a participant
14 chooses the payment plan option, the county or court shall collect
15 all relevant information to allow for collection by the Franchise
16 Tax Board pursuant to existing protocols prescribed by the
17 Franchise Tax Board to collect delinquent debts of any amount in
18 which a participant is delinquent or otherwise in default under ~~his~~
19 ~~or her~~ *the* amnesty payment plan.

20 ~~(3)~~

21 (2) If a participant does not comply with the terms of ~~his or her~~
22 *the participant's* payment plan under the amnesty program,
23 including failing to make one or more payments, the appropriate
24 agency shall send a notice to the participant that ~~he or she has~~ *they*
25 *have* failed to make one or more payments and that the participant
26 has 30 days to either resume making payments or to request that
27 the agency change the payment amount. If the participant fails to
28 respond to the notice within 30 days, the appropriate agency may
29 refer the participant to the Franchise Tax Board for collection of
30 any remaining balance owed, including an amount equal to the
31 reasonable administrative costs incurred by the Franchise Tax
32 Board to collect the delinquent amount owed. The Franchise Tax
33 Board shall collect any delinquent amounts owed pursuant to
34 existing protocols prescribed by the Franchise Tax Board. The
35 comprehensive collection program may also utilize additional
36 collection efforts pursuant to Section 1463.007 of the Penal Code,
37 except for subparagraph (C) of paragraph (4) of subdivision (c) of
38 that section.

39 ~~(4)~~

1 (3) A plan for outreach that will, at a minimum, make available
2 via an ~~Internet Web site~~ *internet website* relevant information
3 regarding the amnesty program, including how an individual may
4 participate in the amnesty program.

5 ~~(5)~~

6 (4) The Judicial Council shall reimburse costs incurred by the
7 Department of Motor Vehicles up to an amount not to exceed two
8 hundred fifty thousand dollars (\$250,000), including all of the
9 following:

10 (A) Providing on a separate insert with each motor vehicle
11 registration renewal notice a summary of the amnesty program
12 established pursuant to this section that is compliant with Section
13 7292 of the Government Code.

14 (B) Posting on the department's ~~Internet Web site~~ *internet*
15 *website* information regarding the amnesty program.

16 (C) Personnel costs associated with the amnesty program.

17 (j) The Judicial Council, in consultation with the department,
18 may, within its existing resources, consider, adopt, or develop
19 recommendations for an appropriate mechanism or mechanisms
20 to allow reinstatement of the driving privilege of any person who
21 otherwise meets the criteria for amnesty but who has violations in
22 more than one county.

23 (k) A criminal action shall not be brought against a person for
24 a delinquent fine or bail paid under the amnesty program.

25 (l) (1) The total amount of funds collected under the amnesty
26 program shall, as soon as practical after receipt thereof, be
27 deposited in the county treasury or the account established under
28 Section 77009 of the Government Code. After acceptance of the
29 amount specified in subdivision (h), notwithstanding Section
30 1203.1d of the Penal Code, the remaining revenues collected under
31 the amnesty program shall be distributed on a pro rata basis in the
32 same manner as a partial payment distributed pursuant to Section
33 1462.5 of the Penal Code.

34 (2) Notwithstanding Section 1464 of the Penal Code, the amount
35 of funds collected pursuant to this section that would be available
36 for distribution pursuant to subdivision (f) of Section 1464 of the
37 Penal Code shall instead be distributed as follows:

38 (A) The first two hundred fifty thousand dollars (\$250,000)
39 received shall be transferred to the Judicial Council.

1 (B) Following the transfer of the funds described in
2 subparagraph (A), once a month, both of the following transfers
3 shall occur:

4 (i) An amount equal to 82.20 percent of the amount of funds
5 collected pursuant to this section during the preceding month shall
6 be transferred into the Peace Officers' Training Fund.

7 (ii) An amount equal to 17.80 percent of the amount of funds
8 collected pursuant to this section during the preceding month shall
9 be transferred into the Corrections Training Fund.

10 (m) Each court or county implementing an amnesty program
11 shall file, not later than May 31, 2017, a written report with the
12 Judicial Council, on a form approved by the Judicial Council. The
13 report shall include information about the number of cases resolved,
14 the amount of money collected, and the operating costs of the
15 amnesty program. Notwithstanding Section 10231.5 of the
16 Government Code, on or before August 31, 2017, the Judicial
17 Council shall submit a report to the Legislature summarizing the
18 information provided by each court or county.

19 *SEC. 138. Section 44237 is added to the Vehicle Code, to read:*
20 *44237. On and after January 1, 2020, the unpaid balance of*
21 *any court-imposed costs pursuant to subdivision (c) of Section*
22 *11208, Sections 23573, 23575.3, 40508.5, and 40508.6, subdivision*
23 *(g) of Section 40510.5, Section 40611, the imposition of the*
24 *thirty-five-dollar (\$35) fee specified in paragraph (2) of subdivision*
25 *(a) of Section 42007, the forty-nine-dollar (\$49) fee specified in*
26 *Section 42007.1, and paragraph (2) of subdivision (i) of Section*
27 *42008.8, as those sections read on December 31, 2019, shall be*
28 *unenforceable and uncollectible and any portion of a judgment*
29 *imposing those costs shall be vacated.*

30 *SEC. 139. Section 903.3 of the Welfare and Institutions Code*
31 *is repealed.*

32 ~~903.3. (a) A person who is 26 years of age or older shall,~~
33 ~~unless indigent, be liable for the cost to the county and court for~~
34 ~~any investigation related to the sealing and for the sealing of any~~
35 ~~juvenile court or arrest records pursuant to Section 781 pertaining~~
36 ~~to that person.~~

37 ~~(b) In the event a petition is filed for an order sealing a record,~~
38 ~~a person who is 26 years of age or older may be required to~~
39 ~~reimburse the county and court for the actual cost of services~~
40 ~~rendered, whether or not the petition is granted and the records are~~

1 sealed or expunged, at a rate to be determined by the county board
 2 of supervisors for the county and by the court for the court, not to
 3 exceed one hundred fifty dollars (\$150). Ability to make this
 4 reimbursement shall be determined by the court using the standards
 5 set forth in paragraph (2) of subdivision (g) of Section 987.8 of
 6 the Penal Code and shall not be a prerequisite to a person's
 7 eligibility under this section. The court may order reimbursement
 8 in any case in which the petitioner appears to have the ability to
 9 pay, without undue hardship, all or any portion of the cost for
 10 services.

11 (e) Notwithstanding subdivision (a), a person shall not be liable
 12 for the costs described in this section if a petition to declare the
 13 minor a dependent child of the court pursuant to Section 300 is
 14 dismissed at or before the jurisdictional hearing.

15 (d) Any determination of amount made by a court under this
 16 section shall be valid only if either (1) made under procedures
 17 adopted by the Judicial Council or (2) approved by the Judicial
 18 Council.

19 *SEC. 140. Section 903.45 of the Welfare and Institutions Code*
 20 *is amended to read:*

21 903.45. (a) The board of supervisors may designate a county
 22 financial evaluation officer pursuant to Section 27750 of the
 23 Government Code to make financial evaluations of liability for
 24 reimbursement pursuant to Sections 903, 903.1, 903.2, 903.25,
 25 ~~903.3~~, and 903.5, and other reimbursable costs allowed by law, as
 26 set forth in this section.

27 (b) (1) (A) In a county where a board of supervisors has
 28 designated a county financial evaluation officer, the juvenile court
 29 shall, at the close of the disposition hearing, order any person liable
 30 for the cost of support, pursuant to Section 903, the cost of legal
 31 services as provided for in Section 903.1, supervision costs as
 32 provided for in Section 903.2, or any other reimbursable costs
 33 allowed under this code, to appear before the county financial
 34 evaluation officer for a financial evaluation of ~~his or her~~ *the*
 35 *person's* ability to pay those costs. If the responsible person is not
 36 present at the disposition hearing, the court shall cite ~~him or her~~
 37 *the person* to appear for a financial evaluation. In the case of a
 38 parent, guardian, or other person assessed for the costs of transport,
 39 food, shelter, or care of a minor under Section 903.25, the juvenile
 40 court shall, upon request of the county probation department, order

1 the appearance of the parent, guardian, or other person before the
2 county financial evaluation officer for a financial evaluation of ~~his~~
3 ~~or her~~ *their* ability to pay the costs assessed.

4 (B) (i) This paragraph does not apply to costs described in this
5 paragraph for purposes of a minor who is adjudged a ward of the
6 juvenile court, who is placed on probation pursuant to Section 725,
7 who is the subject of a petition that has been filed to adjudge the
8 minor a ward of the juvenile court, or who is the subject of a
9 program of supervision undertaken pursuant to Section 654.

10 (ii) Notwithstanding clause (i), this paragraph applies to a minor
11 who is designated as a dual status child pursuant to Section 241.1,
12 for purposes of the dependency jurisdiction only and not for
13 purposes of the delinquency jurisdiction.

14 (2) If the county financial evaluation officer determines that a
15 person so responsible has the ability to pay all or part of the costs,
16 the county financial evaluation officer shall petition the court for
17 an order requiring the person to pay that sum to the county or court,
18 depending on which entity incurred the expense. If the parent or
19 guardian is liable for costs for legal services pursuant to Section
20 903.1, the parent or guardian has been reunified with the child
21 pursuant to a court order, and the county financial evaluation officer
22 determines that repayment of the costs would harm the ability of
23 the parent or guardian to support the child, then the county financial
24 evaluation officer shall not petition the court for an order of
25 repayment, and the court shall not make that order. In addition, if
26 the parent or guardian is currently receiving reunification services,
27 and the court finds, or the county financial officer determines, that
28 repayment by the parent or guardian will pose a barrier to
29 reunification with the child because it will limit the ability of the
30 parent or guardian to comply with the requirements of the
31 reunification plan or compromise the parent's or guardian's current
32 or future ability to meet the financial needs of the child, or in any
33 case in which the court finds that the repayment would be unjust
34 under the circumstances of the case, then the county financial
35 evaluation officer shall not petition the court for an order of
36 repayment, and the court shall not order repayment by the parent
37 or guardian. In evaluating a person's ability to pay under this
38 section, the county financial evaluation officer and the court shall
39 take into consideration the family's income, the necessary
40 obligations of the family, and the number of persons dependent

1 upon this income. A person appearing for a financial evaluation
2 has the right to dispute the county financial evaluation officer's
3 determination, in which case ~~he or she~~ *the person* is entitled to a
4 hearing before the juvenile court. The county financial evaluation
5 officer, at the time of the financial evaluation, shall advise the
6 person of ~~his or her~~ *the* right to a hearing and of ~~his or her~~ *their*
7 rights pursuant to subdivision (c).

8 (3) At the hearing, a person responsible for costs is entitled to
9 have, but shall not be limited to, the opportunity to be heard in
10 person, to present witnesses and other documentary evidence, to
11 confront and cross-examine adverse witnesses, to disclosure of
12 the evidence against ~~him or her~~, *them* and to receive a written
13 statement of the findings of the court. The person has the right to
14 be represented by counsel, and, if the person is unable to afford
15 counsel, the right to appointed counsel. If the court determines
16 that the person has the ability to pay all or part of the costs,
17 including the costs of any counsel appointed to represent the person
18 at the hearing, the court shall set the amount to be reimbursed and
19 order ~~him or her~~ *them* to pay that sum to the county or court,
20 depending on which entity incurred the expense, in a manner in
21 which the court believes reasonable and compatible with the
22 person's financial ability.

23 (4) If the person, after having been ordered to appear before the
24 county financial evaluation officer, has been given proper notice
25 and fails to appear as ordered, the county financial evaluation
26 officer shall recommend to the court that the person be ordered to
27 pay the full amount of the costs. Proper notice to the person shall
28 contain all of the following:

29 (A) That the person has a right to a statement of the costs as
30 soon as it is available.

31 (B) The person's procedural rights under Section 27755 of the
32 Government Code.

33 (C) The time limit within which the person's appearance is
34 required.

35 (D) A warning that if the person fails to appear before the county
36 financial evaluation officer, the officer will recommend that the
37 court order the person to pay the costs in full.

38 (5) If the county financial evaluation officer determines that the
39 person has the ability to pay all or a portion of these costs, with or
40 without terms, and the person concurs in this determination and

1 agrees to the terms of payment, the county financial evaluation
2 officer, upon ~~his or her~~ *the officer's* written evaluation and the
3 person's written agreement, shall petition the court for an order
4 requiring the person to pay that sum to the county or the court in
5 a manner that is reasonable and compatible with the person's
6 financial ability. This order may be granted without further notice
7 to the person, provided that a copy of the order is served on the
8 person by mail or by electronic means pursuant to Section 212.5.

9 (6) However, if the county financial evaluation officer cannot
10 reach an agreement with the person with respect to either the
11 liability for the costs, the amount of the costs, the person's ability
12 to pay the costs, or the terms of payment, the matter shall be
13 deemed in dispute and referred by the county financial evaluation
14 officer back to the court for a hearing.

15 (c) At any time prior to the satisfaction of a judgment entered
16 pursuant to this section, a person against whom the judgment was
17 entered may petition the rendering court to modify or vacate the
18 judgment on the basis of a change in circumstances relating to ~~his~~
19 ~~or her~~ *their* ability to pay the judgment.

20 (d) Execution may be issued on the order in the same manner
21 as on a judgment in a civil action, including any balance remaining
22 unpaid at the termination of the court's jurisdiction over the minor.

23 *SEC. 141. Section 904 of the Welfare and Institutions Code is*
24 *amended to read:*

25 904. (a) The monthly or daily charge, not to exceed cost, for
26 care, support, and maintenance of minor persons placed or detained
27 in or committed to any institution by order of a juvenile court, *and*
28 ~~the cost of supervision referred to by Section 903.2, and the cost~~
29 ~~of sealing records in county or local agency custody referred to~~
30 ~~by Section 903.3~~ 903.2 shall be determined by the board of
31 supervisors. The cost of dependency-related legal services referred
32 to by Section 903.1 ~~and the cost of sealing records in court custody~~
33 ~~referred to by Section 903.3~~ shall be determined by the court. Any
34 determination made by a court under this section shall be valid
35 only if either (1) made under procedures adopted by the Judicial
36 Council or (2) approved by the Judicial Council.

37 (b) (1) This section does not apply to a minor who is adjudged
38 a ward of the juvenile court, who is placed on probation pursuant
39 to Section 725, who is the subject of a petition that has been filed
40 to adjudge the minor a ward of the juvenile court, or who is the

1 subject of a program of supervision undertaken pursuant to Section
2 654.

3 (2) Notwithstanding paragraph (1), this section applies to a
4 minor who is designated as a dual status child pursuant to Section
5 241.1, for purposes of the dependency jurisdiction only and not
6 for purposes of the delinquency jurisdiction.

7 *SEC. 142. If the Commission on State Mandates determines*
8 *that this act contains costs mandated by the state, reimbursement*
9 *to local agencies and school districts for those costs shall be made*
10 *pursuant to Part 7 (commencing with Section 17500) of Division*
11 *4 of Title 2 of the Government Code.*

12 ~~SECTION 1. The Legislature finds and declares all of the~~
13 ~~following:~~

14 ~~(a) State law authorizes counties to charge criminal~~
15 ~~administrative fees. These financial exactions are imposed in~~
16 ~~addition, in many cases, to serving time in prison, and are intended~~
17 ~~to generate revenue for public programs and to fund their~~
18 ~~operations.~~

19 ~~(b) Administrative fees, penalty assessments, and surcharges~~
20 ~~are extraordinarily burdensome. Individuals exiting the criminal~~
21 ~~justice system are often charged dozens of administrative fees and~~
22 ~~surcharges, totaling thousands of dollars per person. In Los Angeles~~
23 ~~County, for example, someone with a 3-year term of probation~~
24 ~~accumulates over \$5,500 in probation fees alone.~~

25 ~~(c) These fees are charged to people who have already paid their~~
26 ~~debt to society and serve no formal punitive function, and are often~~
27 ~~assigned to people who simply cannot afford to pay them.~~

28 ~~(d) This practice often pushes families into poverty and can trap~~
29 ~~them in a cycle of debt. They serve as a perpetual punishment by~~
30 ~~pushing vulnerable families further into economic insecurity and~~
31 ~~peril, as well as increased mental stress, with low-income people~~
32 ~~and people of color often hit the hardest. Additionally, a national~~
33 ~~survey of formerly incarcerated people found that families often~~
34 ~~bear the burden of fees, and that 83 percent of the people~~
35 ~~responsible for paying these costs are women.~~

36 ~~(e) Due to overpolicing and systemic racial bias, these fees are~~
37 ~~disproportionately imposed on communities of color and are~~
38 ~~especially harmful for Black and Latinx people, who are~~
39 ~~overrepresented in the criminal legal system across the state.~~
40 ~~Despite making up only 7 percent of the state population, Black~~

1 people make up 23 percent of the probation population and are
2 also grossly overrepresented in felony and misdemeanor arrests.
3 Moreover, close to half of Black and Latinx households in
4 California live on the brink of poverty as they struggle to put food
5 on the table and pay for housing.

6 (f) ~~The vast majority of people exiting jail or prison are~~
7 ~~unemployed, have unstable housing, have no steady source of~~
8 ~~income, and find work difficult or nearly impossible to obtain after~~
9 ~~release. Approximately 80 percent of individuals in jail are~~
10 ~~indigent. Yet, after someone has already served their time, they~~
11 ~~frequently receive a bill for a long list of fines and fees to pay for~~
12 ~~probation, fingerprinting, and mandated user fees. According to a~~
13 ~~report by the Ella Baker Center for Human Rights, the average~~
14 ~~debt incurred for court-related fines and fees of over 700 people~~
15 ~~surveyed was \$13,607, nearly equal to the annual income for~~
16 ~~respondents in the survey.~~

17 (g) ~~Criminal fees also undermine public safety. The goal of a~~
18 ~~successful postincarceration period is to reintegrate into the~~
19 ~~community, yet these fees create significant barriers to successful~~
20 ~~reentry. These financial burdens frequently hit individuals at the~~
21 ~~precise moment they are trying to turn their lives around. The~~
22 ~~nonpayment of criminal fees can lead to wage garnishment, bank~~
23 ~~account levies, tax refund intercepts, driver's and professional~~
24 ~~license suspensions, negative credit scores, and even incarceration~~
25 ~~or deportation. These consequences can, in turn, limit access to~~
26 ~~employment, housing, education, and public benefits, which creates~~
27 ~~additional barriers to successful reentry. Research also shows that~~
28 ~~the fees can push individuals into underground economies and can~~
29 ~~result in individuals turning to criminal activity or predatory~~
30 ~~lending to pay their debts.~~

31 (h) ~~Criminal fees are also an inefficient source of government~~
32 ~~revenue. Research shows that the fees are expensive and difficult~~
33 ~~to collect. For instance, in one year, Alameda County Central~~
34 ~~Collections spent approximately \$1.6 million toward collection of~~
35 ~~adult fines, fees and restitution for all cases, resulting in a net loss~~
36 ~~of \$1.3 million. Similarly, a study of comparable juvenile~~
37 ~~administrative fees found that counties typically netted very little~~
38 ~~or even lost revenue after accounting for collections costs.~~

39 (i) ~~Momentum to end criminal fees is growing in the state and~~
40 ~~individual counties have begun to recognize that these fees are~~

1 “high pain, low gain,” and are taking steps to eliminate them. In
2 May 2018, San Francisco eliminated all criminal administrative
3 fees under its control, freeing over 21,000 people of more than
4 \$32,000,000 in outstanding criminal administrative fees and
5 surcharges. Additionally, in December of 2018, the Alameda
6 County Board of Supervisors voted to eliminate a host of
7 county-imposed criminal fees. The board voted to eliminate
8 \$26,000,000 in fees for tens of thousands of Alameda County
9 residents. In 2017, the County of Los Angeles eliminated its public
10 defender registration fee.

11 (j) With the passage of Senate Bill 190 in 2017 and other
12 important criminal justice reform bills, California is a national
13 leader in criminal justice reform. In order to live up to our
14 progressive values of fairness, equity, and opportunity for all, the
15 Legislature should continue its work on criminal justice reform
16 and take all measures necessary to ensure all California families
17 have a chance to achieve economic stability and are treated fairly.

18 SEC. 2. It is the intent of the Legislature to enact legislation
19 to eliminate the range of administrative fees that agencies and
20 courts are authorized to impose to fund elements of the criminal
21 legal system, and to eliminate all outstanding debt incurred as a
22 result of the imposition of administrative fees.