

## Senate Bill No. 1241

### CHAPTER 699

An act to amend Section 56.103 of the Civil Code, to amend Sections 3130, 3425, and 3448 of the Family Code, to amend Sections 1031 and 15029 of the Government Code, to repeal Section 11648 of the Health and Safety Code, to amend Section 227 of the Labor Code, to amend Sections 290.3, 538d, 830.2, 1126, 1170.11, 1298, 11102.1, 11112.5, 11167.5, 12020, 12076, 12082, 13825.3, and 14204 of, and to repeal Section 12091 of, the Penal Code, to amend Sections 10652, 13352, and 40002 of the Vehicle Code, and to amend Sections 731.1, 733, 1731.5, 1766, and 1767.35 of the Welfare and Institutions Code, relating to public safety.

[Approved by Governor September 30, 2008. Filed with  
Secretary of State September 30, 2008.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1241, Margett. Public safety.

(1) Existing law provides procedures for the enforcement of child custody orders and support obligations.

This bill would make technical, nonsubstantive changes to those provisions.

(2) Existing law requires the Department of Justice to annually report on its activities and accomplishments to the Legislature and to federal, state, and local law enforcement agencies, as well as to other interested groups. Existing law requires that report to include a separate report on the activities of the Crack Down Task Force Program, which has the responsibility for establishing, conducting, supporting, and coordinating crack down task forces composed of state and local law enforcement agencies targeting the investigation and apprehension of the Colombian cartel-street gang cocaine networks.

This bill would delete the requirement that the Department of Justice's annual report include a separate report on the activities of the Crack Down Task Force Program.

(3) Existing law requires peace officers to meet certain minimum standards, including being a high school graduate, as specified, passing the General Education Development Test, or having attained a 2-year or 4-year degree from an accredited college or university.

This bill would revise and recast the above requirements. Among other changes, the bill would expand the category of organizations and agencies that are authorized to accredit schools for purposes of those provisions.

(4) Existing law requires the Department of Justice to establish a Clandestine Laboratory Enforcement Program to assist state and local law enforcement and prosecutorial agencies in apprehending and prosecuting

persons involved in the unlawful manufacture of controlled substances. Existing law also requires the Department of Justice to report annually on its activities and on the accomplishments of the Clandestine Laboratory Enforcement Program to the Legislature and to federal, state, and local law enforcement agencies, as well as to other interested groups.

This bill would delete provisions that require the Department of Justice to make those annual reports.

(5) Existing law, enacted by initiative statute, requires sex offenders, as defined, to pay a fine, as specified. Existing law transfers \$100 for each of those fines imposed in excess of \$100 to the Department of Corrections and Rehabilitation to defray the cost of the global positioning system used to monitor sex offender parolees.

Existing law permits the Legislature to amend those provisions by a statute passed in each house by rollcall vote entered in the journal,  $\frac{2}{3}$  of the members of each house concurring, or by a statute that becomes effective only when approved by the voters.

This bill would instead transfer  $\frac{1}{3}$  of every first conviction fine collected and  $\frac{1}{5}$  of the second and each subsequent conviction fine for that purpose. By amending that initiative statute, this bill would require a  $\frac{2}{3}$  vote.

(6) Existing law declares that whenever an employer has agreed with any employee to make payments to a health or welfare fund, pension fund, or vacation plan, or other similar plan for the benefit of the employees, or a negotiated industrial promotion fund, or has entered into a collective bargaining agreement providing for those payments, it is unlawful for that employer willfully or with intent to defraud to fail to make the payments required by the terms of that agreement. A violation of that provision where the amount the employer failed to pay into the fund or funds exceeds \$500 is punishable by imprisonment in the state prison for a period of not more than 5 years or in the county jail for a period of not more than one year, by a fine of not more than \$1,000, or by both that imprisonment and fine.

This bill would change that punishment to imprisonment in the state prison, or in a county jail for a period of not more than one year, by a fine of not more than \$1,000, or by both that imprisonment and fine, and would state the intent of the Legislature regarding that change.

(7) Existing law grants specified peace officers authority that extends to any place in the state, including any member of the Law Enforcement and Investigations Unit of the Department of Corrections, as specified.

This bill would extend that authority to any member of the Office of Correctional Safety of the Department of Corrections and Rehabilitation whose primary duties are as specified.

(8) Existing law authorizes the imprisonment of a person who manufactures, imports, sells, or possesses specified weapons. Existing law exempts from that provision the sale to, purchase by, or possession of, short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces, as specified.

This bill would specify, in addition, that the sale to, purchase by, or possession of, short-barreled shotguns or short-barreled rifles by the Department of Corrections and Rehabilitation, as specified, is not punishable by imprisonment.

(9) Existing law declares the possession of any pistol or revolver upon which the name of the maker, model, manufacturer's number or other mark of identification has been changed, altered, removed, or obliterated, to be presumptive evidence that the possessor has changed, altered, removed, or obliterated the same.

This bill would repeal that provision.

(10) Existing law requires the Department of Justice to prepare and submit an annual report to the Legislature regarding the California Gang, Crime, and Violence Prevention Partnership Program, as specified.

This bill would require the department to file that report only in years in which the program receives funds.

(11) Existing law requires the Corrections Standards Authority to provide for the presentation of training to peace officers which will enable them to more efficiently handle, on the local level, the tracing of missing persons and victims of violent crimes.

This bill would delete that provision.

(12) This bill would also provide that any section of any act, other than SB 1498, enacted by the Legislature during the 2008 calendar year that takes effect on or before January 1, 2009, and that affects, as specified, any one or more of the sections affected by this act shall prevail over this act, whether this act is enacted prior to, or subsequent to, the enactment of that act.

This bill would also make other related, conforming changes.

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

SECTION 1. Section 56.103 of the Civil Code is amended to read:

56.103. (a) A provider of health care may disclose medical information to a county social worker, a probation officer, or any other person who is legally authorized to have custody or care of a minor for the purpose of coordinating health care services and medical treatment provided to the minor.

(b) For purposes of this section, health care services and medical treatment includes one or more providers of health care providing, coordinating, or managing health care and related services, including, but not limited to, a provider of health care coordinating health care with a third party, consultation between providers of health care and medical treatment relating to a minor, or a provider of health care referring a minor for health care services to another provider of health care.

(c) For purposes of this section, a county social worker, a probation officer, or any other person who is legally authorized to have custody or

care of a minor shall be considered a third party who may receive any of the following:

(1) Medical information described in Sections 56.05 and 56.10.

(2) Protected health information described in Section 160.103 of Title 45 of the Code of Federal Regulations.

(d) Medical information disclosed to a county social worker, probation officer, or any other person who is legally authorized to have custody or care of a minor shall not be further disclosed by the recipient unless the disclosure is for the purpose of coordinating health care services and medical treatment of the minor and the disclosure is authorized by law. Medical information disclosed pursuant to this section may not be admitted into evidence in any criminal or delinquency proceeding against the minor. Nothing in this subdivision shall prohibit identical evidence from being admissible in a criminal proceeding if that evidence is derived solely from lawful means other than this section and is permitted by law.

(e) (1) Notwithstanding Section 56.104, if a provider of health care determines that the disclosure of medical information concerning the diagnosis and treatment of a mental health condition of a minor is reasonably necessary for the purpose of assisting in coordinating the treatment and care of the minor, that information may be disclosed to a county social worker, probation officer, or any other person who is legally authorized to have custody or care of the minor. The information shall not be further disclosed by the recipient unless the disclosure is for the purpose of coordinating mental health services and treatment of the minor and the disclosure is authorized by law.

(2) As used in this subdivision, “medical information” does not include psychotherapy notes as defined in Section 164.501 of Title 45 of the Code of Federal Regulations.

(f) The disclosure of information pursuant to this section is not intended to limit the disclosure of information when that disclosure is otherwise required by law.

(g) For purposes of this section, “minor” means a minor taken into temporary custody or as to who a petition has been filed with the court, or who has been adjudged to be a dependent child or ward of the juvenile court pursuant to Section 300 or 602 of the Welfare and Institutions Code.

(h) (1) Except as described in paragraph (1) of subdivision (e), nothing in this section shall be construed to limit or otherwise affect existing privacy protections provided for in state or federal law.

(2) Nothing in this section shall be construed to expand the authority of a social worker, probation officer, or custodial caregiver beyond the authority provided under existing law to a parent or a patient representative regarding access to medical information.

SEC. 2. Section 3130 of the Family Code is amended to read:

3130. If a petition to determine custody of a child has been filed in a court of competent jurisdiction, or if a temporary order pending determination of custody has been entered in accordance with Chapter 3 (commencing with Section 3060), and the whereabouts of a party in

possession of the child are not known, or there is reason to believe that the party may not appear in the proceedings although ordered to appear personally with the child pursuant to Section 3430, the district attorney shall take all actions necessary to locate the party and the child and to procure compliance with the order to appear with the child for purposes of adjudication of custody. The petition to determine custody may be filed by the district attorney.

SEC. 3. Section 3425 of the Family Code is amended to read:

3425. (a) Before a child custody determination is made under this part, notice and an opportunity to be heard in accordance with the standards of Section 3408 must be given to all persons entitled to notice under the law of this state as in child custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(b) This part does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this part are governed by the law of this state as in child custody proceedings between residents of this state.

SEC. 4. Section 3448 of the Family Code is amended to read:

3448. (a) A petition under this chapter must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination must state all of the following:

(1) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was.

(2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this part and, if so, identify the court, the case number, and the nature of the proceeding.

(3) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding.

(4) The present physical address of the child and the respondent, if known.

(5) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

(6) If the child custody determination has been registered and confirmed under Section 3445, the date and place of registration.

(c) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of

the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(d) An order issued under subdivision (c) must state the time and place of the hearing and advise the respondent that, at the hearing, the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under Section 3452, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes either of the following:

(1) That the child custody determination has not been registered and confirmed under Section 3445 and all of the following are true:

(A) The issuing court did not have jurisdiction under Chapter 2 (commencing with Section 3421).

(B) The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Chapter 2 (commencing with Section 3421).

(C) The respondent was entitled to notice, but notice was not given in accordance with the standards of Section 3408, in the proceedings before the court that issued the order for which enforcement is sought.

(2) That the child custody determination for which enforcement is sought was registered and confirmed under Section 3445, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Chapter 2 (commencing with Section 3421).

SEC. 5. Section 1031 of the Government Code is amended to read:

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

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

(b) Be at least 18 years of age.

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

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

(e) Be a high school graduate, pass the General Education Development Test indicating high school graduation level, pass the California High School Proficiency Examination, or have attained a two-year, four-year, or advanced degree from an accredited college or university. The high school shall be either a United States public school, an accredited United States Department of Defense high school, or an accredited or approved public or nonpublic high school. Any accreditation or approval required by this paragraph shall be from a state or local government educational agency using local or state government approved accreditation, licensing, registration, or other approval standards, a regional accrediting association, an accrediting association recognized by the Secretary of the United States Department of Education, an accrediting association holding full membership in the National Council for Private School Accreditation (NCPSA), an organization holding full

membership in the Commission on International and Trans-Regional Accreditation (CITA), an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFSSAA).

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

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

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

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

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

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

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

(h) This section shall become operative on January 1, 2005.

SEC. 6. Section 15029 of the Government Code is amended to read:

15029. (a) The Crack Down Task Force Program is hereby created within the Department of Justice with responsibility for establishing, conducting, supporting, and coordinating crack down task forces composed of state and local law enforcement agencies targeting the investigation and apprehension of the Colombian cartel-street gang cocaine networks.

(b) The department shall coordinate all investigations undertaken by task forces operating under the Crack Down Task Force Program with all local agencies having law enforcement responsibilities within the jurisdictions involved. The department shall also solicit participation by appropriate federal agencies with task force investigations whenever possible.

The department's Bureau of Narcotic Enforcement, Bureau of Forensic Services, and Bureau of Investigations shall provide staffing and logistical support for the crackdown task forces, supplying special agents, criminal intelligence analysts, forensic experts, financial auditors, equipment, and funding to the task forces as needed.

(c) Local law enforcement agencies participating in the Crack Down Task Force Program shall be reimbursed by the department for personnel overtime costs and equipment or supplies required for task force activities.

SEC. 7. Section 11648 of the Health and Safety Code is repealed.

SEC. 8. Section 227 of the Labor Code is amended to read:

227. Whenever an employer has agreed with any employee to make payments to a health or welfare fund, pension fund or vacation plan, or other similar plan for the benefit of the employees, or a negotiated industrial promotion fund, or has entered into a collective bargaining agreement providing for these payments, it shall be unlawful for that employer willfully or with intent to defraud to fail to make the payments required by the terms of that agreement. A violation of any provision of this section where the amount the employer failed to pay into the fund or funds exceeds five hundred dollars (\$500) shall be punishable by imprisonment in the state prison, or in a county jail for a period of not more than one year, by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine. All other violations shall be punishable as a misdemeanor.

SEC. 9. Section 290.3 of the Penal Code is amended to read:

290.3. (a) Every person who is convicted of any offense specified in subdivision (c) of Section 290 shall, in addition to any imprisonment or fine, or both, imposed for commission of the underlying offense, be punished by a fine of three hundred dollars (\$300) upon the first conviction or a fine of five hundred dollars (\$500) upon the second and each subsequent conviction, unless the court determines that the defendant does not have the ability to pay the fine.

An amount equal to all fines collected pursuant to this subdivision during the preceding month upon conviction of, or upon the forfeiture of bail by, any person arrested for, or convicted of, committing an offense specified in subdivision (c) of Section 290, shall be transferred once a month by the county treasurer to the Controller for deposit in the General Fund. Moneys deposited in the General Fund pursuant to this subdivision shall be transferred by the Controller as provided in subdivision (b).

(b) Except as provided in subdivision (d), out of the moneys deposited pursuant to subdivision (a) as a result of second and subsequent convictions of Section 290, one-third shall first be transferred to the Department of Justice Sexual Habitual Offender Fund, as provided in paragraph (1) of this subdivision. Out of the remainder of all moneys deposited pursuant to subdivision (a), 50 percent shall be transferred to the Department of Justice Sexual Habitual Offender Fund, as provided in paragraph (1), 25 percent shall be transferred to the DNA Identification Fund, as established by Section 76104.6 of the Government Code, and 25 percent shall be allocated equally to counties that maintain a local DNA testing laboratory, as provided in paragraph (2).

(1) Those moneys so designated shall be transferred to the Department of Justice Sexual Habitual Offender Fund created pursuant to paragraph (5) of subdivision (b) of Section 11170 and, when appropriated by the Legislature, shall be used for the purposes of Chapter 9.5 (commencing



with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4 for the purpose of monitoring, apprehending, and prosecuting sexual habitual offenders.

(2) Those moneys so designated shall be allocated equally and distributed quarterly to counties that maintain a local DNA testing laboratory. Before making any allocations under this paragraph, the Controller shall deduct the estimated costs that will be incurred to set up and administer the payment of these funds to the counties. Any funds allocated to a county pursuant to this paragraph shall be used by that county for the exclusive purpose of testing DNA samples for law enforcement purposes.

(c) Notwithstanding any other provision of this section, the Department of Corrections and Rehabilitation may collect a fine imposed pursuant to this section from a person convicted of a violation of any offense listed in subdivision (c) of Section 290, that results in incarceration in a facility under the jurisdiction of the Department of Corrections and Rehabilitation. All moneys collected by the Department of Corrections and Rehabilitation under this subdivision shall be transferred, once a month, to the Controller for deposit in the General Fund, as provided in subdivision (a), for transfer by the Controller, as provided in subdivision (b).

(d) An amount equal to one-third of every first conviction fine collected and one-fifth of every second conviction fine collected pursuant to subdivision (a) shall be transferred to the Department of Corrections and Rehabilitation to help defray the cost of the global positioning system used to monitor sex offender parolees.

SEC. 10. Section 538d of the Penal Code is amended to read:

538d. (a) Any person other than one who by law is given the authority of a peace officer, who willfully wears, exhibits, or uses the authorized uniform, insignia, emblem, device, label, certificate, card, or writing, of a peace officer, with the intent of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor.

(b) (1) Any person, other than the one who by law is given the authority of a peace officer, who willfully wears, exhibits, or uses the badge of a peace officer with the intent of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

(2) Any person who willfully wears or uses any badge that falsely purports to be authorized for the use of one who by law is given the authority of a peace officer, or which so resembles the authorized badge of a peace officer as would deceive any ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of a peace officer, for the purpose of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that he or she is a peace officer, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed

one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

(c) Any person who willfully wears, exhibits, or uses, or who willfully makes, sells, loans, gives, or transfers to another, any badge, insignia, emblem, device, or any label, certificate, card, or writing, which falsely purports to be authorized for the use of one who by law is given the authority of a peace officer, or which so resembles the authorized badge, insignia, emblem, device, label, certificate, card, or writing of a peace officer as would deceive an ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of a peace officer, is guilty of a misdemeanor, except that any person who makes or sells any badge under the circumstances described in this subdivision is subject to a fine not to exceed fifteen thousand dollars (\$15,000).

(d) (1) Vendors of law enforcement uniforms shall verify that a person purchasing a uniform identifying a law enforcement agency is an employee of the agency identified on the uniform. Presentation and examination of a valid identification card with a picture of the person purchasing the uniform and identification, on the letterhead of the law enforcement agency, of the person buying the uniform as an employee of the agency identified on the uniform shall be sufficient verification.

(2) Any uniform vendor who sells a uniform identifying a law enforcement agency, without verifying that the purchaser is an employee of the agency, is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000).

(3) This subdivision shall not apply if the uniform is to be used solely as a prop for a motion picture, television, video production, or a theatrical event, and prior written permission has been obtained from the identified law enforcement agency.

SEC. 11. Section 830.2 of the Penal Code is amended to read:

830.2. The following persons are peace officers whose authority extends to any place in the state:

(a) Any member of the Department of the California Highway Patrol including those members designated under subdivision (a) of Section 2250.1 of the Vehicle Code, provided that the primary duty of the peace officer is the enforcement of any law relating to the use or operation of vehicles upon the highways, or laws pertaining to the provision of police services for the protection of state officers, state properties, and the occupants of state properties, or both, as set forth in the Vehicle Code and Government Code.

(b) A member of the University of California Police Department appointed pursuant to Section 92600 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 92600 of the Education Code.

(c) A member of the California State University Police Departments appointed pursuant to Section 89560 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 89560 of the Education Code.

(d) (1) Any member of the Office of Correctional Safety of the Department of Corrections and Rehabilitation, provided that the primary duties of the peace officer shall be the investigation or apprehension of inmates, wards, parolees, parole violators, or escapees from state institutions, the transportation of those persons, the investigation of any violation of criminal law discovered while performing the usual and authorized duties of employment, and the coordination of those activities with other criminal justice agencies.

(2) Any member of the Office of Internal Affairs of the Department of Corrections and Rehabilitation, provided that the primary duties shall be criminal investigations of Department of Corrections and Rehabilitation personnel and the coordination of those activities with other criminal justice agencies. For purposes of this subdivision, the member of the Office of Internal Affairs shall possess certification from the Commission on Peace Officer Standards and Training for investigators, or have completed training pursuant to Section 6126.1 of the Penal Code.

(e) Employees of the Department of Fish and Game designated by the director, provided that the primary duty of those peace officers shall be the enforcement of the law as set forth in Section 856 of the Fish and Game Code.

(f) Employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as set forth in Section 5008 of the Public Resources Code.

(g) The Director of Forestry and Fire Protection and employees or classes of employees of the Department of Forestry and Fire Protection designated by the director pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(h) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any of these peace officers shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(i) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officers shall be the enforcement of the law as prescribed in that section.

(j) The Inspector General, pursuant to Section 6125, and the Chief Deputy Inspector General In Charge, the Senior Deputy Inspector General, the Deputy Inspector General, and those employees of the Inspector General as designated by the Inspector General, are peace officers, provided that the primary duty of these peace officers shall be conducting audits of investigatory practices and other audits, as well as conducting investigations,

of the Department of Corrections and Rehabilitation, Division of Juvenile Justice and the Board of Parole Hearings.

SEC. 12. Section 1126 of the Penal Code is amended to read:

1126. In a trial for any offense, questions of law are to be decided by the court, and questions of fact by the jury. Although the jury has the power to find a general verdict, which includes questions of law as well as of fact, they are bound, nevertheless, to receive as law what is laid down as such by the court.

SEC. 13. Section 1170.11 of the Penal Code is amended to read:

1170.11. As used in Section 1170.1, the term “specific enhancement” means an enhancement that relates to the circumstances of the crime. It includes, but is not limited to, the enhancements provided in Sections 186.10, 186.11, 186.22, 186.26, 186.33, 192.5, 273.4, 289.5, 290.4, 290.45, 290.46, 347, and 368, subdivisions (a) and (b) of Section 422.75, paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 451.1, paragraphs (2), (3), and (4) of subdivision (a) of Section 452.1, subdivision (g) of Section 550, Sections 593a, 600, 667.8, 667.85, 667.9, 667.10, 667.15, 667.16, 667.17, 674, 675, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, 12022.85, 12022.9, 12022.95, 12072, and 12280 of this code, and in Sections 1522.01 and 11353.1, subdivision (b) of Section 11353.4, Sections 11353.6, 11356.5, 11370.4, 11379.7, 11379.8, 11379.9, 11380.1, 11380.7, 25189.5, and 25189.7 of the Health and Safety Code, and in Sections 20001 and 23558 of the Vehicle Code, and in Sections 10980 and 14107 of the Welfare and Institutions Code.

SEC. 14. Section 1298 of the Penal Code is amended to read:

1298. In lieu of a deposit of money, the defendant or any other person may deposit bonds of the United States or of the State of California of the face value of the cash deposit required, and these bonds shall be treated in the same manner as a deposit of money or the defendant or any other person may give as security any equity in real property which he or she owns, provided that no charge is made to the defendant or any other person for the giving as security of any equity in real property. A hearing, at which witnesses may be called or examined, shall be held before the magistrate to determine the value of the equity and if the magistrate finds that the value of the equity is equal to twice the amount of the cash deposit required he or she shall allow the bail. The clerk shall, under order of the court, when occasion arises therefor, sell the bonds or the equity and apply the proceeds of the sale in the manner that a deposit of cash may be required to be applied.

SEC. 15. Section 11102.1 of the Penal Code is amended to read:

11102.1. (a) (1) Notwithstanding any other law, the Department of Justice shall establish, implement, and maintain a certification program to process fingerprint-based criminal background clearances on individuals who roll fingerprint impressions, manually or electronically, for non-law-enforcement purposes. Except as provided in paragraph (2), no person shall roll fingerprints for non-law-enforcement purposes unless certified.

(2) The following persons shall be exempt from this section if they have received training pertaining to applicant fingerprint rolling and have undergone a criminal offender record information background investigation:

(A) Law enforcement personnel and state employees.

(B) Employees of a tribal gaming agency or a tribal gaming operation, provided that the fingerprints are rolled and submitted to the Department of Justice for purposes of compliance with a tribal-state compact.

(3) The department shall not accept fingerprint impressions for non-law-enforcement purposes unless they were rolled by an individual certified or exempted pursuant to this section.

(b) Individuals who roll fingerprint impressions, either manually or electronically, for non-law-enforcement purposes, must submit to the Department of Justice fingerprint images and related information, along with the appropriate fees and documentation. The department shall retain one copy of the fingerprint impressions to process a state level criminal background clearance, and it shall submit one copy of the fingerprint impressions to the Federal Bureau of Investigation to process a federal level criminal background clearance.

(c) The department shall retain the fingerprint impressions for subsequent arrest notification pursuant to Section 11105.2.

(d) Every individual certified as a fingerprint roller shall meet the following criteria:

(1) Be a legal resident of this state at the time of certification.

(2) Be at least 18 years of age.

(3) Have satisfactorily completed a notarized written application prescribed by the department to determine the fitness of the person to exercise the functions of a fingerprint roller.

(e) Prior to granting a certificate as a fingerprint roller, the department shall determine that the applicant possesses the required honesty, credibility, truthfulness, and integrity to fulfill the responsibilities of the position.

(f) (1) The department shall refuse to certify any individual as a fingerprint roller, and shall revoke the certification of any fingerprint roller, upon either of the following:

(A) Conviction of a felony offense.

(B) Conviction of any other offense that both involves moral turpitude, dishonesty, or fraud, and bears on the applicant's ability to perform the duties or responsibilities of a fingerprint roller.

(2) A conviction after a plea of nolo contendere is deemed to be a conviction for purposes of this subdivision.

(g) In addition to subdivision (f), the department may refuse to certify any individual as a fingerprint roller, and may revoke or suspend the certification of any fingerprint roller upon any of the following:

(1) Substantial and material misstatement or omission in the application submitted to the department.

(2) Arrest pending adjudication for a felony.

(3) Arrest pending adjudication for a lesser offense that both involves moral turpitude, dishonesty, or fraud, and bears on the applicant's ability to perform the duties or responsibilities of a fingerprint roller.

(4) Revocation, suspension, restriction, or denial of a professional license, if the revocation, suspension, restriction, or denial was for misconduct, dishonesty, or for any cause substantially related to the duties or responsibilities of a fingerprint roller.

(5) Failure to discharge fully and faithfully any of the duties or responsibilities required of a fingerprint roller.

(6) When adjudged liable for damages in any suit grounded in fraud, misrepresentation, or in violation of the state regulatory laws, or in any suit based upon a failure to discharge fully and faithfully the duties of a fingerprint roller.

(7) Use of false or misleading advertising in which the fingerprint roller has represented that he or she has duties, rights, or privileges that he or she does not possess by law.

(8) Commission of any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the fingerprint roller or another, or to substantially injure another.

(9) Failure to submit any remittance payable upon demand by the department or failure to satisfy any court ordered money judgment, including restitution.

(h) The Department of Justice shall work with applicant regulatory entities to improve and make more efficient the criminal offender record information request process related to employment, licensing, and certification background investigations.

(i) The Department of Justice may adopt regulations as necessary to implement the provisions of this section.

(j) The department shall charge a fee sufficient to cover its costs under this section.

SEC. 16. Section 11112.5 of the Penal Code is amended to read:

11112.5. (a) Costs for equipment purchases based upon the master plan approved by the Attorney General, including state sales tax, freight, insurance, and installation, shall be prorated between the state and local governmental entity. The state's share shall be 70 percent. The local government's share shall be 30 percent, paid in legal tender. Purchases may be made under the existing Cal-ID contract through the Department of General Services.

(b) Alternatively, at the discretion of the local board, an independent competitive procurement may be initiated under the following conditions:

(1) Prior to submitting a bid in an independent procurement, any prospective bidder must demonstrate the ability to meet or exceed performance levels established in the existing Cal-ID contract and demonstrate the ability to interface with Cal-ID and meet or exceed performance levels established in the existing Cal-ID contract without degrading the performance of the Cal-ID system.

(2) Both qualifying benchmarks will be at the prospective bidder's expense and will be conducted by the Department of Justice.

(3) In the event that no vendor other than the existing contract vendor qualifies to bid, purchases shall be made by the Department of General Services on behalf of local agencies pursuant to the existing Cal-ID contract.

(c) Competitive local procurements must adhere to the following guidelines:

(1) Administrative requirements contained within Section 5200 of the State Administrative Manual shall be met.

(2) Local procurements shall not increase the costs the state would otherwise be obligated to pay.

(3) Final bids submitted in an independent procurement shall contain a signed contract that represents an irrevocable offer that does not materially deviate from the terms and conditions of the existing Cal-ID contract.

(4) The selected vendor shall post a performance bond in an amount equal to 25 percent of the local equipment costs. The bond shall remain in effect until the local acceptance test has been successfully completed.

(5) Requests for tender, including contract language, shall be approved by the Department of General Services prior to release. The Department of General Services and the Department of Justice shall be represented on the evaluation and selection team.

(d) The local government agency shall be responsible for all costs related to conducting a local bid, site preparation, equipment maintenance, ongoing operational costs, file conversion over and above those records that are available on magnetic media from the Department of Justice, and equipment enhancements or systems design which exceed the basic design specifications of the Department of Justice. The state shall provide sufficient circuitry to each county, or group of counties to handle all fingerprint data traffic. The state shall provide for annual maintenance of that line.

SEC. 17. Section 11167.5 of the Penal Code is amended to read:

11167.5. (a) The reports required by Sections 11166 and 11166.2, or authorized by Section 11166.05, and child abuse or neglect investigative reports that result in a summary report being filed with the Department of Justice pursuant to subdivision (a) of Section 11169 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article is a misdemeanor punishable by imprisonment in a county jail not to exceed six months, by a fine of five hundred dollars (\$500), or by both that imprisonment and fine.

(b) Reports of suspected child abuse or neglect and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170 or subdivision (a) of Section 11170.5.

(3) Persons or agencies with whom investigations of child abuse or neglect are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(5) Persons or agencies responsible for the licensing of facilities which care for children, as specified in Section 11165.7.

(6) The State Department of Social Services or any county licensing agency which has contracted with the state, as specified in paragraph (4) of subdivision (b) of Section 11170, when an individual has applied for a community care license or child day care license, or for employment in an out-of-home care facility, or when a complaint alleges child abuse or neglect by an operator or employee of an out-of-home care facility.

(7) Hospital scan teams. As used in this paragraph, “hospital scan team” means a team of three or more persons established by a hospital, or two or more hospitals in the same county, consisting of health care professionals and representatives of law enforcement and child protective services, the members of which are engaged in the identification of child abuse or neglect. The disclosure authorized by this section includes disclosure among all hospital scan teams.

(8) Coroners and medical examiners when conducting a post mortem examination of a child.

(9) The Board of Parole Hearings, which may subpoena an employee of a county welfare department who can provide relevant evidence and reports that both (A) are not unfounded, pursuant to Section 11165.12, and (B) concern only the current incidents upon which parole revocation proceedings are pending against a parolee charged with child abuse or neglect. The reports and information shall be confidential pursuant to subdivision (d) of Section 11167.

(10) Personnel from an agency responsible for making a placement of a child pursuant to Section 361.3 of, and Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code.

(11) Persons who have been identified by the Department of Justice as listed in the Child Abuse Central Index pursuant to paragraph (7) of subdivision (b) of Section 11170 or subdivision (c) of Section 11170, or persons who have verified with the Department of Justice that they are listed in the Child Abuse Central Index as provided in subdivision (f) of Section 11170. Disclosure under this paragraph is required notwithstanding the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code. Nothing in this paragraph shall preclude a submitting agency prior to disclosure from redacting any information necessary to maintain confidentiality as required by law.

(12) Out-of-state law enforcement agencies conducting an investigation of child abuse or neglect only when an agency makes the request for reports of suspected child abuse or neglect in writing and on official letterhead, or as designated by the Department of Justice, identifying the suspected abuser or victim by name and date of birth or approximate age. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written request shall cite the out-of-state statute or interstate



compact provision that requires that the information contained within these reports is to be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure provided by the requesting state or the applicable interstate compact provision. In the absence of both (A) a specific out-of-state statute or interstate compact provision that requires that the information contained within these reports be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and (B) criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(13) Out-of-state agencies responsible for approving prospective foster or adoptive parents or relative caregivers for placement of a child only when the agency makes the request for information in writing on official letterhead, transmitted by mail, fax, or electronic transmission, or as designated by the Department of Justice. The request shall identify the prospective foster or adoptive parent or relative caregiver, and any other adult living in the home, by name and date of birth or approximate age. The request shall be signed by the department supervisor of the requesting agency. The request shall cite the out-of-state statute or interstate compact provision that requires that the information contained in the reports shall be disclosed and used for no purpose other than conducting background checks in foster or adoptive cases. The request shall also cite the criminal penalties for unlawful disclosure provided by the requesting state or the applicable interstate compact provision. In the absence of an out-of-state statute or interstate compact provision that requires that the information contained within the reports be disclosed and used for no purpose other than conducting background checks in foster or adoptive cases, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(14) Each chairperson of a county child death review team, or his or her designee, to whom disclosure of information is permitted under this article, relating to the death of one or more children and any prior child abuse or neglect investigation reports maintained involving the same victim, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(c) Authorized persons within county health departments shall be permitted to receive copies of any reports made by health practitioners, as defined in paragraphs (21) to (28), inclusive, of subdivision (a) of Section 11165.7, and pursuant to Section 11165.13, and copies of assessments completed pursuant to Sections 123600 and 123605 of the Health and Safety Code, to the extent permitted by federal law. Any information received pursuant to this subdivision is protected by subdivision (e).

(d) Nothing in this section requires the Department of Justice to disclose information contained in records maintained under Section 11170 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(e) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse or neglect if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse or neglect.

SEC. 18. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who does any of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(1) Manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any fléchette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, any metal military practice handgrenade or metal replica handgrenade, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

(2) Commencing January 1, 2000, manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine.

(3) Carries concealed upon his or her person any explosive substance, other than fixed ammunition.

(4) Carries concealed upon his or her person any dirk or dagger.

However, a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1). A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, the Department of Corrections and Rehabilitation, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by peace officer members of a police department, sheriff's office, marshal's office, the California Highway Patrol, the Department of Justice, or the Department of Corrections and Rehabilitation, when on duty and the use is authorized by the agency and is within the course and scope of their duties and the peace officer has completed a training course in the use of these

weapons certified by the Commission on Peace Officer Standards and Training.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, “antique firearm” means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition that is a curio or relic as defined in Section 478.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person

who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred to in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by peace officers thereof when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(13) Weapons, devices, and ammunition, other than a short-barreled rifle or short-barreled shotgun, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(15) Any plastic toy handgrenade, or any metal military practice handgrenade or metal replica handgrenade that is a relic, curio, memorabilia, or display item, that is filled with a permanent inert substance or that is otherwise permanently altered in a manner that prevents ready modification for use as a grenade.

(16) Any instrument, ammunition, weapon, or device listed in subdivision (a) that is not a firearm that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the instrument, ammunition, weapon, or device no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the listed item, he or she is transporting the listed item to a law enforcement agency for disposition according to law.

(17) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency for disposition according to law.

(D) Prior to transporting the firearm to a law enforcement agency, he or she has given prior notice to that law enforcement agency that he or she is transporting the firearm to that law enforcement agency for disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

(18) The possession of any weapon, device, or ammunition, by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

(19) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(20) The sale to, lending to, transfer to, purchase by, receipt of, or importation into this state of, a large-capacity magazine by a sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(21) The sale or purchase of any large-capacity magazine to or by a person licensed pursuant to Section 12071.

(22) The loan of a lawfully possessed large-capacity magazine between two individuals if all of the following conditions are met:

(A) The person being loaned the large-capacity magazine is not prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition.

(B) The loan of the large-capacity magazine occurs at a place or location where the possession of the large-capacity magazine is not otherwise prohibited and the person who lends the large-capacity magazine remains in the accessible vicinity of the person to whom the large-capacity magazine is loaned.

(23) The importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the large-capacity magazine previously lawfully possessed in the state.

(24) The lending or giving of any large-capacity magazine to a person licensed pursuant to Section 12071, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(25) The return to its owner of any large-capacity magazine by a person specified in paragraph (24).

(26) The importation into this state of, or sale of, any large-capacity magazine by a person who has been issued a permit to engage in those activities pursuant to Section 12079, when those activities are in accordance with the terms and conditions of that permit.

(27) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine, to or by entities that operate armored vehicle businesses pursuant to the laws of this state.

(28) The lending of large-capacity magazines by the entities specified in paragraph (27) to their authorized employees, while in the course and scope of their employment for purposes that pertain to the entity's armored vehicle business.

(29) The return of those large-capacity magazines to those entities specified in paragraph (27) by those employees specified in paragraph (28).

(30) (A) The manufacture of a large-capacity magazine for any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(B) The manufacture of a large-capacity magazine for use by a sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(C) The manufacture of a large-capacity magazine for export or for sale to government agencies or the military pursuant to applicable federal regulations.

(31) The loan of a large-capacity magazine for use solely as a prop for a motion picture, television, or video production.

(32) The purchase of a large-capacity magazine by the holder of a special weapons permit issued pursuant to Section 12095, 12230, 12250, 12286, or 12305, for any of the following purposes:

(A) For use solely as a prop for a motion picture, television, or video production.

(B) For export pursuant to federal regulations.

(C) For resale to law enforcement agencies, government agencies, or the military, pursuant to applicable federal regulations.

(c) (1) As used in this section, a “short-barreled shotgun” means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a “short-barreled rifle” means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) As used in this section, a “nunchaku” means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(4) As used in this section, a “wallet gun” means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of

being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

(5) As used in this section, a “cane gun” means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if the firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a “fléchette dart” means a dart, capable of being fired from a firearm, that measures approximately one inch in length, with tail fins that take up approximately five-sixteenths of an inch of the body.

(7) As used in this section, “metal knuckles” means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer’s hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(8) As used in this section, a “ballistic knife” means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater speargun.

(9) As used in this section, a “camouflaging firearm container” means a container which meets all of the following criteria:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

“Camouflaging firearm container” does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a “zip gun” means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and Subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.



(11) As used in this section, a “shuriken” means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an “unconventional pistol” means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a “belt buckle knife” is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2 ½ inches.

(14) As used in this section, a “lipstick case knife” means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a “cane sword” means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a “shobi-zue” means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a “leaded cane” means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an “air gauge knife” means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a “writing pen knife” means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a “rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, a “shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, an “undetectable firearm” means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(C) For purposes of this paragraph, the terms “firearm,” “major component,” and “Security Exemplar” have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one’s person sufficient for reasonable passage of the public.

(23) As used in this section, a “multiburst trigger activator” means one of the following devices:

(A) A device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(24) As used in this section, a “dirk” or “dagger” means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 653k, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

(25) As used in this section, “large-capacity magazine” means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include any of the following:

(A) A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.

(B) A .22 caliber tube ammunition feeding device.

(C) A tubular magazine that is contained in a lever-action firearm.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 19. Section 12076 of the Penal Code is amended to read:

12076. (a) (1) Before January 1, 1998, the Department of Justice shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats:

(A) Submission of the register described in Section 12077.

(B) Electronic or telephonic transfer of the information contained in the register described in Section 12077.

(2) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.

(3) On or after January 1, 2003, except as permitted by the department, electronic transfer shall be the exclusive means by which information is transmitted to the department. Telephonic transfer shall not be permitted for information regarding sales of any firearms.

(b) (1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor, provided however, that any person who is prohibited from obtaining a firearm pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code who knowingly furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required to be provided for the register shall be punished by imprisonment in a county jail not exceeding one year or imprisonment in the state prison for a term of 8, 12, or 18 months.

(2) The original of the register shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of the last transaction and shall be available for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(3) Two copies of the original sheet of the register, on the date of the application to purchase, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice.

(4) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.

(5) If the transaction is a private party transfer conducted pursuant to Section 12082, a photocopy of the original shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser's personal information, as required pursuant to paragraph (1) of subdivision (b) and paragraph (1) of subdivision (c) of Section 12077, from the seller's copy, and the seller's personal information from the purchaser's copy.

(c) (1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the electronic or telephonic transfer and any person violating any provision of this section is guilty of a misdemeanor, provided however, that any person who is prohibited from obtaining a firearm pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code who knowingly furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required to be provided for the register shall be punished by imprisonment in a county jail not exceeding one year or imprisonment in the state prison for a term of 8, 12, or 18 months.

(2) The record of applicant information shall be transmitted to the Department of Justice by electronic or telephonic transfer on the date of the application to purchase.

(3) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order. Each original shall become the permanent record of the transaction that shall be retained for not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(4) If requested, a copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer.

(5) If the transaction is a private party transfer conducted pursuant to Section 12082, a copy shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser's personal information, as required pursuant to paragraph (1) of subdivision (b) and paragraph (1) of subdivision (c) of Section 12077, from the seller's copy, and the seller's personal information from the purchaser's copy.

(d) (1) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021, 12021.1, or subparagraph (A) of paragraph (9) of subdivision (a) of Section 12072 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(2) To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System

(NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(3) If the department determines that the purchaser is a person described in Section 12021, 12021.1, or subparagraph (A) of paragraph (9) of subdivision (a) of Section 12072 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(4) If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (e) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (e), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(5) If the department determines that the information transmitted to it pursuant to subdivision (c) contains inaccurate or incomplete information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to subdivision (e) is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to subdivision (e), or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(e) The Department of Justice may require the dealer to charge each firearm purchaser a fee not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations. The fee shall be no more than is necessary to fund the following:

- (1) (A) The department for the cost of furnishing this information.
- (B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.
- (2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by Section 8103 of the Welfare and Institutions Code.
- (3) The State Department of Mental Health for the costs resulting from the requirements imposed by Section 8104 of the Welfare and Institutions Code.
- (4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.
- (5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.
- (6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.
- (7) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).
- (8) The Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code.
- (9) The department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072.
- (10) The department for the costs associated with funding Department of Justice firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (3) of this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (4) of this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (6) of this subdivision, the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, the estimated reasonable costs of the department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, and the estimated reasonable costs of department

firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

(f) (1) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

(A) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to Section 12078.

(B) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department.

(C) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (l) of Section 12078 or paragraph (18) of subdivision (b) of Section 12071, or clause (i) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, or paragraph (3) of subdivision (f) of Section 12072.

(D) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(2) If the department charges a fee pursuant to subparagraph (B) of paragraph (1) of this subdivision, it shall be charged in the same amount to all categories of transaction that are within that subparagraph.

(3) Any costs incurred by the Department of Justice to implement this subdivision shall be reimbursed from fees collected and charged pursuant to this subdivision. No fees shall be charged to the dealer pursuant to subdivision (e) for implementing this subdivision.

(g) All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section, paragraph (1) and subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, Sections 12083 and 12099, subdivision (c) of Section 12131, Sections 12234, 12289, and 12289.5, and subdivisions (f) and (g) of Section 12305.

(h) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in subdivision (e) to the department.

(i) (1) Only one fee shall be charged pursuant to this section for a single transaction on the same date for the sale of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person or for the taking of possession of those firearms.

(2) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the department shall charge a reduced fee pursuant to this section for the second and subsequent firearms that are part of that transaction.

(j) Only one fee shall be charged pursuant to this section for a single transaction on the same date for taking title or possession of any number of

firearms pursuant to paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

(k) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

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

(1) "Purchaser" means the purchaser or transferee of a firearm or a person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

(4) "Seller" means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

SEC. 20. Section 12082 of the Penal Code is amended to read:

12082. (a) A person shall complete any sale, loan, or transfer of a firearm through a person licensed pursuant to Section 12071 in accordance with this section in order to comply with subdivision (d) of Section 12072. The seller or transferor or the person loaning the firearm shall deliver the firearm to the dealer who shall retain possession of that firearm. The dealer shall then deliver the firearm to the purchaser or transferee or the person being loaned the firearm, if it is not prohibited, in accordance with subdivision (c) of Section 12072. If the dealer cannot legally deliver the firearm to the purchaser or transferee or the person being loaned the firearm, the dealer shall forthwith, without waiting for the conclusion of the waiting period described in Sections 12071 and 12072, return the firearm to the transferor or seller or the person loaning the firearm. The dealer shall not return the firearm to the seller or transferor or the person loaning the firearm when to do so would constitute a violation of subdivision (a) of Section 12072. If the dealer cannot legally return the firearm to the transferor or seller or the person loaning the firearm, then the dealer shall forthwith deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county who shall then dispose of the firearm in the manner provided by Sections 12028 and 12032. The purchaser or transferee or person being loaned the firearm may be required by the dealer to pay a fee not to exceed ten dollars (\$10) per firearm, and no other fee may be charged by the dealer for a sale, loan, or transfer of a firearm conducted pursuant to this section, except for the applicable fees that may be charged pursuant to Sections 12076, 12076.5, and 12088.9 and forwarded to the Department of Justice, and the fees set forth in Section 12805. Nothing in these provisions shall prevent a dealer from charging a smaller fee. The dealer may not charge any additional fees.

(b) The Attorney General shall adopt regulations under this section to do all of the following:

(1) Allow the seller or transferor or the person loaning the firearm, and the purchaser or transferee or the person being loaned the firearm, to



complete a sale, loan, or transfer through a dealer, and to allow those persons and the dealer to comply with the requirements of this section and Sections 12071, 12072, 12076, and 12077 and to preserve the confidentiality of those records.

(2) Where a personal handgun importer is selling or transferring a pistol, revolver, or other firearm capable of being concealed upon the person to comply with clause (ii) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, to allow a personal handgun importer's ownership of the pistol, revolver, or other firearm capable of being concealed upon the person being sold or transferred to be recorded in a manner that if the firearm is returned to that personal handgun importer because the sale or transfer cannot be completed, the Department of Justice will have sufficient information about that personal handgun importer so that a record of his or her ownership can be maintained in the registry provided by subdivision (c) of Section 11106.

(3) Ensure that the register or record of electronic transfer shall state the name and address of the seller or transferor of the firearm or the person loaning the firearm and whether or not the person is a personal handgun importer in addition to any other information required by Section 12077.

(c) Notwithstanding any other provision of law, a dealer who does not sell, transfer, or keep an inventory of handguns is not required to process private party transfers of handguns.

(d) A violation of this section by a dealer is a misdemeanor.

SEC. 21. Section 12091 of the Penal Code is repealed.

SEC. 22. Section 13825.3 of the Penal Code is amended to read:

13825.3. All funds made available to the Department of Justice for purposes of this chapter shall be disbursed in accordance with this chapter to community-based organizations and nonprofit agencies that comply with the program requirements of Section 13825.4 and the funding criteria of Section 13825.5 of this chapter.

(a) Funds disbursed under this chapter may enhance, but shall not supplant local, state, or federal funds that would, in the absence of the California Gang, Crime, and Violence Prevention Partnership Program, be made available for the prevention or intervention of youth involvement in gangs, crime, or violence.

(b) The applicant community-based organization or nonprofit agency may enter into interagency agreements between it and a fiscal agent that will allow the fiscal agent to manage the funds awarded to the community-based organization or nonprofit agency.

(c) Before April 15, 1998, the department shall prepare and file administrative guidelines and procedures for the California Gang, Crime, and Violence Prevention Partnership Program consistent with this chapter.

(d) Before July 1, 1998, the department shall issue a "request for funding proposal" that informs applicants of the purposes and availability of funds to be awarded under this chapter and solicits proposals from community-based organizations and nonprofit agencies to provide services consistent with this chapter.

(e) The department shall conduct an evaluation of the California Gang, Crime, and Violence Prevention Partnership Program after two years of program operation and each year thereafter, for purposes of identifying the effectiveness and results of the program. The evaluation shall be conducted by staff or an independent body that has experience in evaluating programs operated by community-based organizations or nonprofit agencies.

(f) After two years of program operation, and each year thereafter, the department shall prepare and submit an annual report to the Legislature describing in detail the operation of the program and the results obtained from the California Gang, Crime, and Violence Prevention Partnership Program receiving funds under this chapter. The report shall also list the full costs applicable to the department for processing and reviewing applications, and for administering the California Gang, Crime, and Violence Prevention Partnership Program. The department shall be required to submit an annual report to the Legislature only in years in which the California Gang, Crime, and Violence Prevention Partnership Program receives funds under this chapter.

SEC. 23. Section 14204 of the Penal Code is amended to read:

14204. The Attorney General shall provide training on the services provided by the center to line personnel, supervisors, and investigators in the following fields: law enforcement, district attorneys' offices, the Department of Corrections and Rehabilitation, probation departments, court mediation services, and the judiciary.

SEC. 24. Section 10652 of the Vehicle Code is amended to read:

10652. Whenever any vehicle of a type subject to registration under this code has been stored in a garage, repair shop, parking lot, or trailer park for 30 days, the keeper shall report such fact to the Department of Justice by receipted mail, which shall at once notify the legal owner as of record. This section shall not apply to any vehicle stored by a peace officer or employee designated in Section 22651 pursuant to Article 3 (commencing with Section 22850) of Chapter 10 of Division 11.

SEC. 25. Section 13352 of the Vehicle Code is amended to read:

13352. (a) The department shall immediately suspend or revoke the privilege of a person to operate a motor vehicle upon the receipt of an abstract of the record of a court showing that the person has been convicted of a violation of Section 23152 or 23153, subdivision (a) of Section 23109, or Section 23109.1, or upon the receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of Section 23152 or 23153 or subdivision (a) of Section 23109 or Section 23109.1. If an offense specified in this section occurs in a vehicle defined in Section 15210, the suspension or revocation specified below shall apply to the noncommercial driving privilege. The commercial driving privilege shall be disqualified as specified in Sections 15300 to 15302, inclusive. For the purposes of this section, suspension or revocation shall be as follows:

(1) Except as required under Section 13352.1 or Section 13352.4, upon a conviction or finding of a violation of Section 23152 punishable under Section 23536, the privilege shall be suspended for a period of six months.

The privilege may not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code described in subdivision (b) of Section 23538. If the court, as authorized under paragraph (3) of subdivision (b) of Section 23646, elects to order a person to enroll, participate and complete either program described in subdivision (b) of Section 23542, the department shall require that program in lieu of the program described in subdivision (b) of Section 23538. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit may not be given to any program activities completed prior to the date of the current violation.

(2) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23554, the privilege shall be suspended for a period of one year. The privilege may not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code as described in subdivision (b) of Section 23556. If the court, as authorized under paragraph (3) of subdivision (b) of Section 23646, elects to order a person to enroll, participate, and complete either program described in subdivision (b) of Section 23542, the department shall require that program in lieu of the program described in Section 23556. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit may not be given to any program activities completed prior to the date of the current violation.

(3) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23152 punishable under Section 23540, the privilege shall be suspended for two years. The privilege may not be reinstated until the person gives proof of financial responsibility and gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code as described in subdivision (b) of Section 23542. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after completion of 12 months of the suspension period, which may include credit for a suspension period served under subdivision (c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily provided, subsequent to the violation date of the current underlying conviction, either of the following:

(i) Proof of enrollment in an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) Proof of enrollment in a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment.

(B) The person agrees, as a condition of the restriction, to continue satisfactory participation in the program described in subparagraph (A).

(C) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(D) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(E) The person provides proof of financial responsibility, as defined in Section 16430.

(F) The person pays all administrative fees or reissue fees and any restriction fee required by the department.

(G) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(4) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23153 punishable under Section 23560, the privilege shall be revoked for a period of three years. The privilege may not be reinstated until the person gives proof of financial responsibility, and the person gives proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in paragraph (4) of subdivision (b) of Section 23562. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after the completion of 12 months of the revocation period, which may include credit for a suspension period served under subdivision (c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subsequent to the violation date of the current underlying conviction, either of the following:

(i) The initial 12 months of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) The initial 12 months of a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in that 30-month program.

(B) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(C) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(D) The person provides proof of financial responsibility, as defined in Section 16430.

(E) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(F) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(5) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23152 punishable under Section 23546, the privilege shall be revoked for a period of three years. The privilege may not be reinstated until the person files proof of financial responsibility and gives proof satisfactory to the department of successful completion of one of the following programs: an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in subdivision (b) or (c) of Section 23548, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after completion of 12 months of the revocation period, which may include credit for a suspension period served under subdivision (c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subsequent to the violation date of the current underlying conviction, either of the following:

(i) The initial 12 months of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) The initial 12 months of a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month driving-under-the-influence program.

(B) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(C) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(D) The person provides proof of financial responsibility, as defined in Section 16430.

(E) An individual convicted of a violation of Section 23152 punishable under Section 23546 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or, if available in the county of the person's residence or employment, a 30-month

driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(F) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(G) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(6) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23153 punishable under Section 23550.5 or 23566, the privilege shall be revoked for a period of five years. The privilege may not be reinstated until the person gives proof of financial responsibility and proof satisfactory to the department of successful completion of one of the following programs: an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in subdivision (b) of Section 23568 or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after the completion of 12 months of the revocation period, which may include credit for a suspension period served under subdivision (c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subsequent to the violation date of the current underlying conviction, either of the following:

(i) The initial 12 months of a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month driving-under-the-influence program.

(ii) The initial 12 months of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if a 30-month program is unavailable in the person's county of residence or employment.

(B) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(C) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(D) The person provides proof of financial responsibility, as defined in Section 16430.

(E) An individual convicted of a violation of Section 23153 punishable under Section 23566 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program or, if available in the county of the person's residence or employment, a

30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(F) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(G) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(7) Except as provided in this paragraph, upon a conviction or finding of a violation of Section 23152 punishable under Section 23550 or 23550.5, or Section 23153 punishable under Section 23550.5 the privilege shall be revoked for a period of four years. The privilege may not be reinstated until the person gives proof of financial responsibility and proof satisfactory to the department of successful completion of one of the following programs: an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after the completion of 12 months of the revocation period, which may include credit for a suspension period served under subdivision (c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subsequent to the violation date of the current underlying conviction, either of the following:

(i) The initial 12 months of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) The initial 12 months of a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month driving-under-the-influence program.

(B) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (g) of Section 13386.

(C) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(D) The person provides proof of financial responsibility, as defined in Section 16430.

(E) An individual convicted of a violation of Section 23152 punishable under Section 23550 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section

11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(F) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(G) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

(8) Upon a conviction or finding of a violation of Section 23109.1 or subdivision (a) of Section 23109 that is punishable under subdivision (e) of that section, the privilege shall be suspended for a period of 90 days to six months, if ordered by the court. The privilege may not be reinstated until the person gives proof of financial responsibility, as defined in Section 16430.

(9) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 that is punishable under subdivision (f) of that section, the privilege shall be suspended for a period of six months, if ordered by the court. The privilege may not be reinstated until the person gives proof of financial responsibility, as defined in Section 16430.

(b) For the purpose of paragraphs (2) to (9), inclusive, of subdivision (a), the finding of the juvenile court judge, the juvenile hearing officer, or the referee of a juvenile court of a commission of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109 or Section 23109.1, as specified in subdivision (a) of this section, is a conviction.

(c) A judge of a juvenile court, juvenile hearing officer, or referee of a juvenile court shall immediately report the findings specified in subdivision (a) to the department.

(d) A conviction of an offense in a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or Canada that, if committed in this state, would be a violation of Section 23152, is a conviction of Section 23152 for the purposes of this section, and a conviction of an offense that, if committed in this state, would be a violation of Section 23153, is a conviction of Section 23153 for the purposes of this section. The department shall suspend or revoke the privilege to operate a motor vehicle pursuant to this section upon receiving notice of that conviction.

(e) For the purposes of the restriction conditions specified in paragraphs (3) to (7), inclusive, of subdivision (a), the department shall terminate the restriction imposed pursuant to this section and shall suspend or revoke the person's driving privilege upon receipt of notification from the driving-under-the-influence program that the person has failed to comply with the program requirements. The person's driving privilege shall remain suspended or revoked for the remaining period of the original suspension or revocation imposed under this section and until all reinstatement requirements described in this section are met.

(f) For the purposes of this section, completion of a program is the following:



(1) Satisfactory completion of all program requirements approved pursuant to program licensure, as evidenced by a certificate of completion issued, under penalty of perjury, by the licensed program.

(2) Certification, under penalty of perjury, by the director of a program specified in Section 8001 of the Penal Code, that the person has completed a program specified in Section 8001 of the Penal Code.

(g) The holder of a commercial driver's license who was operating a commercial motor vehicle, as defined in Section 15210, at the time of a violation that resulted in a suspension or revocation of the person's noncommercial driving privilege under this section is not eligible for the restricted driver's license authorized under paragraphs (3) to (7), inclusive, of subdivision (a).

SEC. 26. Section 40002 of the Vehicle Code is amended to read:

40002. (a) (1) When there is a violation of Section 40001, an owner or any other person subject to Section 40001, who was not driving the vehicle involved in the violation, may be mailed a written notice to appear. An exact and legible duplicate copy of that notice when filed with the court, in lieu of a verified complaint, is a complaint to which the defendant may plead "guilty."

(2) If, however, the defendant fails to appear in court or does not deposit lawful bail, or pleads other than "guilty" of the offense charged, a verified complaint shall be filed which shall be deemed to be an original complaint, and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by the defendant and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

(3) A verified complaint pursuant to paragraph (2) shall include a paragraph that informs the person that unless he or she appears in the court designated in the complaint within 21 days after being given the complaint and answers the charge, renewal of registration of the vehicle involved in the offense may be precluded by the department, or a warrant of arrest may be issued against him or her.

(b) (1) If a person mailed a notice to appear pursuant to paragraph (1) of subdivision (a) fails to appear in court or deposit bail, a warrant of arrest shall not be issued based on the notice to appear, even if that notice is verified. An arrest warrant may only be issued after a verified complaint pursuant to paragraph (2) of subdivision (a) is given the person and the person fails to appear in court to answer that complaint.

(2) If a person mailed a notice to appear pursuant to paragraph (1) of subdivision (a) fails to appear in court or deposit bail, the court may give by mail to the person a notice of noncompliance. A notice of noncompliance shall include a paragraph that informs the person that unless he or she appears in the court designated in the notice to appear within 21 days after being given by mail the notice of noncompliance and answers the charge on the notice to appear, or pays the applicable fine and penalties if an appearance is not required, renewal of registration of the vehicle involved in the offense may be precluded by the department.

(c) A verified complaint filed pursuant to this section shall conform to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code.

(d) (1) The giving by mail of a notice to appear pursuant to paragraph (1) of subdivision (a) or a notice of noncompliance pursuant to paragraph (2) of subdivision (b) shall be done in a manner prescribed by Section 22.

(2) The verified complaint pursuant to paragraph (2) of subdivision (a) shall be given in a manner prescribed by Section 22.

SEC. 27. Section 731.1 of the Welfare and Institutions Code is amended to read:

731.1. Notwithstanding any other law, the court committing a ward to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, upon the recommendation of the chief probation officer of the county, may recall that commitment in the case of any ward whose commitment offense was not an offense listed in subdivision (b) of Section 707, unless the offense was a sex offense set forth in subdivision (c) of Section 290.008 of the Penal Code, and who remains confined in an institution operated by the division on or after September 1, 2007. Upon recall of the ward, the court shall set and convene a recall disposition hearing for the purpose of ordering an alternative disposition for the ward that is appropriate under all of the circumstances prevailing in the case. The court shall provide to the division no less than 15 days advance notice of the recall hearing date, and the division shall transport and deliver the ward to the custody of the probation department of the committing county no less than five days prior to the scheduled date of the recall hearing. Pending the recall disposition hearing, the ward shall be detained or housed in the manner and place, consistent with the requirements of law, as may be directed by the court in its order of recall. The timing and procedure of the recall disposition hearing shall be consistent with the rules, rights, and procedures applicable to delinquency disposition hearings, as described in Article 17 (commencing with Section 675).

SEC. 28. Section 733 of the Welfare and Institutions Code is amended to read:

733. A ward of the juvenile court who meets any condition described below shall not be committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities:

(a) The ward is under 11 years of age.

(b) The ward is suffering from any contagious, infectious, or other disease that would probably endanger the lives or health of the other inmates of any facility.

(c) The ward has been or is adjudged a ward of the court pursuant to Section 602, and the most recent offense alleged in any petition and admitted or found to be true by the court is not described in subdivision (b) of Section 707, unless the offense is a sex offense set forth in subdivision (c) of Section 290.008 of the Penal Code. This subdivision shall be effective on and after September 1, 2007.

SEC. 29. Section 1731.5 of the Welfare and Institutions Code is amended to read:

1731.5. (a) After certification to the Governor as provided in this article, a court may commit to the Division of Juvenile Facilities any person who meets all of the following:

(1) Is convicted of an offense described in subdivision (b) of Section 707 or subdivision (c) of Section 290.008 of the Penal Code.

(2) Is found to be less than 21 years of age at the time of apprehension.

(3) Is not sentenced to death, imprisonment for life, with or without the possibility of parole, whether or not pursuant to Section 190 of the Penal Code, imprisonment for 90 days or less, or the payment of a fine, or after having been directed to pay a fine, defaults in the payment thereof, and is subject to imprisonment for more than 90 days under the judgment.

(4) Is not granted probation, or was granted probation and that probation is revoked and terminated.

(b) The Division of Juvenile Facilities shall accept a person committed to it pursuant to this article if it believes that the person can be materially benefitted by its reformatory and educational discipline, and if it has adequate facilities to provide that care.

(c) Any person under 18 years of age who is not committed to the division pursuant to this section may be transferred to the authority by the Secretary of the Department of Corrections and Rehabilitation with the approval of the Chief Deputy Secretary for the Division of Juvenile Justice. In sentencing a person under 18 years of age, the court may order that the person shall be transferred to the custody of the Division of Juvenile Facilities pursuant to this subdivision. If the court makes this order and the division fails to accept custody of the person, the person shall be returned to court for resentencing. The transfer shall be solely for the purposes of housing the inmate, allowing participation in the programs available at the institution by the inmate, and allowing division parole supervision of the inmate, who, in all other aspects shall be deemed to be committed to the Department of Corrections and Rehabilitation and shall remain subject to the jurisdiction of the Secretary of the Department of Corrections and Rehabilitation and the Board of Parole Hearings. Notwithstanding subdivision (b) of Section 2900 of the Penal Code, the secretary, with the concurrence of the chief deputy secretary, may designate a facility under the jurisdiction of the chief deputy secretary as a place of reception for any person described in this subdivision.

The chief deputy secretary shall have the same powers with respect to an inmate transferred pursuant to this subdivision as if the inmate had been committed or transferred to the Division of Juvenile Facilities either under the Arnold-Kennick Juvenile Court Law or subdivision (a).

The duration of the transfer shall extend until any of the following occurs:

(1) The chief deputy secretary orders the inmate returned to the Department of Corrections and Rehabilitation.

(2) The inmate is ordered discharged by the Board of Parole Hearings.

(3) The inmate reaches 18 years of age. However, if the inmate's period of incarceration would be completed on or before the inmate's 21st birthday,

the chief deputy secretary may continue to house the inmate until the period of incarceration is completed.

SEC. 30. Section 1766 of the Welfare and Institutions Code is amended to read:

1766. (a) Subject to Sections 733 and 1767.35, and subdivision (b) of this section, if a person has been committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, the Board of Parole Hearings, according to standardized review and appeal procedures established by the board in policy and regulation and subject to the powers and duties enumerated in subdivision (a) of Section 1719, may do any of the following:

(1) Permit the ward his or her liberty under supervision and upon conditions it believes are best designed for the protection of the public.

(2) Order his or her confinement under conditions it believes best designed for the protection of the public pursuant to the purposes set forth in Section 1700, except that a person committed to the division pursuant to Sections 731 or 1731.5 may not be held in physical confinement for a total period of time in excess of the maximum periods of time set forth in Section 731. Nothing in this subdivision limits the power of the board to retain the minor or the young adult on parole status for the period permitted by Sections 1769, 1770, and 1771.

(3) Order reconfinement or renewed release under supervision as often as conditions indicate to be desirable.

(4) Revoke or modify any parole or disciplinary appeal order.

(5) Modify an order of discharge if conditions indicate that such modification is desirable and when that modification is to the benefit of the person committed to the division.

(6) Discharge him or her from its control when it is satisfied that discharge is consistent with the protection of the public.

(b) The following provisions shall apply to any ward eligible for release on parole on or after September 1, 2007, who was committed to the custody of the Division of Juvenile Facilities for an offense other than one described in subdivision (b) of Section 707 or paragraph (3) of subdivision (d) of Section 290 of the Penal Code:

(1) The county of commitment shall supervise the reentry of any ward released on parole on or after September 1, 2007, who was committed to the custody of the division for committing an offense other than those described in subdivision (b) of Section 707 or subdivision (c) of Section 290.008 of the Penal Code.

(2) Not less than 60 days prior to the scheduled parole consideration hearing of a ward described in this subdivision, the division shall provide to the probation department and the court of the committing county, and the ward's counsel, if known, the most recent written review prepared pursuant to Section 1720, along with notice of the parole consideration hearing date.

(3) Not less than 30 days prior to the scheduled parole consideration hearing of a ward described in this subdivision, the probation department

of the committing county may provide the division with its written plan for the reentry supervision of the ward. At the parole consideration hearing, the Board of Parole Hearings shall, in determining whether the ward is to be released, consider a reentry supervision plan submitted by the county.

(4) Any ward described in this subdivision who is granted parole shall be placed on parole jurisdiction for up to 15 court days following his or her release. The board shall notify the probation department and the court of the committing county within 48 hours of a decision to release a ward.

(5) Within 15 court days of the release by the division of a ward described in this subdivision, the committing court shall convene a reentry disposition hearing for the ward. The purpose of the hearing shall be for the court to identify those conditions of probation that are appropriate under all the circumstances of the case. The court shall, to the extent it deems appropriate, incorporate a reentry plan submitted by the county probation department and reviewed by the board into its disposition order. At the hearing the ward shall be fully informed of the terms and conditions of any order entered by the court, including the consequences for any violation thereof. The procedure of the reentry disposition hearing shall otherwise be consistent with the rules, rights, and procedures applicable to delinquency disposition hearings as described in Article 17 (commencing with Section 675) of Chapter 2 of Part 1 of Division 2.

(6) The division shall have no further jurisdiction over a ward described in this subdivision who is released on parole by the board upon the ward's court appearance pursuant to paragraph (5).

(c) Within 60 days of intake, the division shall provide the court and the probation department with a treatment plan for the ward.

(d) A ward shall be entitled to an appearance hearing before a panel of board commissioners for any action that would result in the extension of a parole consideration date pursuant to subdivision (d) of Section 5076.1 of the Penal Code.

(e) The department shall promulgate policies and regulations to implement this section.

(f) Commencing on July 1, 2004, and annually thereafter, for the preceding fiscal year, the department shall collect and make available to the public the following information:

(1) The total number of ward case reviews conducted by the division and the board, categorized by guideline category.

(2) The number of parole consideration dates for each category set at guideline, above guideline, and below guideline.

(3) The number of ward case reviews resulting in a change to a parole consideration date, including the category assigned to the ward, the amount of time added to or subtracted from the parole consideration date, and the specific reason for the change.

(4) The percentage of wards who have had a parole consideration date changed to a later date, the percentage of wards who have had a parole consideration date changed to an earlier date, and the average annual time added or subtracted per case.

(5) The number and percentage of wards who, while confined or on parole, are charged with a new misdemeanor or felony criminal offense.

(6) Any additional data or information identified by the department as relevant.

(g) As used in subdivision (f), the term “ward case review” means any review of a ward that changes, maintains, or appreciably affects the programs, treatment, or placement of a ward.

SEC. 31. Section 1767.35 of the Welfare and Institutions Code is amended to read:

1767.35. Commencing on September 1, 2007, any parolee under the jurisdiction of the Division of Juvenile Parole Operations shall be returned to custody upon the suspension, cancellation, or revocation of parole as follows:

(a) To the custody of the Division of Juvenile Facilities if the parolee is under the jurisdiction of the division for the commission of an offense described in subdivision (b) of Section 707 or an offense described in subdivision (c) of Section 290.008 of the Penal Code.

(b) To the county of commitment if the parolee is under the jurisdiction of the division for the commission of an offense not described in subdivision (b) of Section 707 or paragraph (3) of subdivision (d) of Section 290 of the Penal Code. If a ward subject to this subdivision is detained by the Division of Juvenile Parole Operations for the purpose of initiating proceedings to suspend, cancel, or revoke the ward’s parole, the division shall notify the court and probation department of the committing county within 48 hours of the ward’s detention that the ward is subject to parole violation proceedings. Within 15 days of a parole violation notice from the division, the committing court shall conduct a reentry disposition hearing for the ward. Pending the hearing, the ward may be detained by the division, provided that the division shall deliver the ward to the custody of the probation department in the county of commitment not more than three judicial days nor less than two judicial days prior to the reentry disposition hearing. At the hearing, at which the ward shall be entitled to representation by counsel, the court shall consider the alleged violation of parole, the risks and needs presented by the ward, and the reentry disposition programs and sanctions that are available for the ward, and enter a disposition order consistent with these considerations and the protection of the public. The ward shall be fully informed by the court of the terms, conditions, responsibilities, and sanctions that are relevant to the reentry plan that is adopted by the court. Upon delivery to the custody of the probation department for local proceedings under this subdivision, the Division of Juvenile Facilities and the Board of Parole Hearings shall have no further jurisdiction or parole supervision responsibility for a ward subject to this subdivision. The procedure of the reentry disposition hearing, including the detention status of the ward in the event continuances are ordered by the court, shall be consistent with the rules, rights, and procedures applicable to delinquency disposition hearings, as described in Article 17 (commencing with Section 675) of Chapter 2 of Part 1 of Division 2.

SEC. 32. It is the intent of the Legislature, in enacting the amendments to Section 227 of the Labor Code, that these changes are for the sole purpose of correcting an obsolete penalty provision, and no other consequence is intended.

SEC. 33. Any section of any act, other than Senate Bill 1498, enacted by the Legislature during the 2008 calendar year that takes effect on or before January 1, 2009, and that amends, amends and renumbers, adds, repeals and adds, or repeals any one or more of the sections affected by this act shall prevail over this act, whether this act is enacted prior to, or subsequent to, the enactment of that act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act, other than Senate Bill 1498, that is enacted by the Legislature during the 2008 calendar year and takes effect on or before January 1, 2009, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.