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CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 105

Introduced by Assembly Member Wayne
(Coauthor: Senator Peace)

January 9, 1997

~~An act to amend Section 1522 of the Health and Safety Code, and to amend Sections 212.5, 213, 667.5, 1170.95, and 3003 of the Penal Code, relating to violent~~ *An act to amend Sections 212.5, 667.5, and 1170.95 of the Penal Code, relating to violent offenders.*

LEGISLATIVE COUNSEL'S DIGEST

AB 105, as amended, Wayne. Violent offenders: sentencing: enhancements.

(1) ~~Existing law requires licensees operating community care facilities, residential care facilities for the elderly, and child day care facilities to terminate, remove, or bar from entering the facility any person who is found to have been convicted of specified crimes unless the Director of Social Services grants an exemption. However, the director may not,~~

~~under existing law, grant the exemption to a person convicted of any of certain offenses.~~

~~This bill would revise and recast this provision to additionally provide that the director may not grant an exemption to a person convicted of specified violent felonies and kidnapping with the intent to commit specified sexual offenses.~~

~~(2) Existing law provides for the classification of robbery as first and second degree, and provides for an enhanced punishment scheme where a first degree robbery, as defined, is carried out by 3 or more persons acting in concert within an inhabited house, vessel, trailer, or any other building.~~

~~This bill would apply this enhanced punishment where a first degree robbery is carried out by 2 or more persons acting in concert within an inhabited house, vessel, trailer, or any other building. The bill also would define as first degree robbery, without regard to the above enhancement, any robbery where 2 or more persons act in concert. *By expanding the scope of an existing sentence enhancement and changing the definition of a crime, this bill would impose a state-mandated local program.*~~

~~(3)~~

~~(2) Existing law requires the court to impose a 3-year sentence enhancement for each prior separate prison term served by the defendant if the prior term was for a “violent felony,” which is defined to include a number of felony offenses.~~

~~This bill would revise and recast certain of these felonies and, for purposes of this provision, expand the definition of “violent felony” to add all of the following:~~

~~(a) Any relating to any robbery wherein it is charged and proved that the defendant was either armed with a firearm or personally used a deadly or dangerous weapon, as defined, in the commission of the robbery, instead of any robbery perpetrated in an inhabited structure, as specified, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon.~~

~~(b) Any carjacking, wherein it is charged and proved that the defendant was armed with a firearm.~~



~~(c) Any arson where it is charged and proved that the defendant intentionally set fire to, or burned or caused the burning of, a distinct inhabited structure or a distinct inhabited property in the commission of that offense.~~

~~(d) Assault with intent to commit mayhem, rape, sodomy, oral copulation, or any of other specified sexual offenses.~~

~~(e) Assault with caustic chemicals or flammable substances with intent to injure the flesh or disfigure the body.~~

~~(f) Assault involving a firearm under specified circumstances.~~

~~(g) Any exploding or igniting of, or attempts to explode or ignite, any destructive device or explosive with intent to commit murder.~~

By expanding the scope of an existing sentence enhancement, the bill would impose a state-mandated local program.

~~(4) Under existing law, the aggregate number of years of imprisonment for a person convicted of multiple residential burglaries, robberies, or arsons that are not “violent felonies,” or robbery where it is charged and found that the defendant personally used a deadly or dangerous weapon, and the robbery is not a violent felony, may exceed 5 years.~~

This bill would delete the provisions that apply to arson and robbery convictions involving the use of a deadly or dangerous weapon.

~~(5) Existing law provides that, notwithstanding any other provision of law, an inmate who is released on parole shall not be returned to within 35 miles of the actual residence of a victim of, or a witness to, a violent felony, as defined, if the Board of Prison Terms or the Department of Corrections finds that there is a need to protect the life, safety, or well-being of a victim or witness.~~

This bill would include additional offenses among the specified violent felonies for purposes of this provision.

~~(6)~~

(3) Existing law specifies the calculation of the aggregate term of imprisonment where a subordinate consecutive term of imprisonment is imposed pursuant to existing sentence enhancement provisions involving one or more convictions for robbery where the defendant personally used a deadly or



dangerous weapon in the commission of that robbery, as defined.

This bill would delete those provisions.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 ~~SECTION 1. Section 1522 of the Health and Safety~~
2 *SECTION 1. Section 212.5 of the Penal Code is*
3 *amended to read:*
4 212.5. (a) Every robbery of any person who is
5 performing his or her duties as an operator of any bus,
6 taxicab, cable car, streetcar, trackless trolley, or other
7 vehicle, including a vehicle operated on stationary rails or
8 on a track or rail suspended in the air, and used for the
9 transportation of persons for hire, every robbery of any
10 passenger which is perpetrated on any of these vehicles,
11 and every robbery which is perpetrated in an inhabited
12 dwelling house, a vessel as defined in Section 21 of the
13 Harbors and Navigation Code which is inhabited and
14 designed for habitation, an inhabited floating home as
15 defined in subdivision (d) of Section 18075.55 of the
16 Health and Safety Code, a trailer coach as defined in the
17 Vehicle Code which is inhabited, or the inhabited portion
18 of any other building is robbery of the first degree.
19 (b) Every robbery of any person while using an
20 automated teller machine or immediately after the
21 person has used an automated teller machine and is in the
22 vicinity of the automated teller machine is robbery of the
23 first degree.
24 (c) *Every robbery where the defendant, voluntarily*
25 *acting in concert with one or more other persons,*
26 *personally, or by aiding or abetting another person or*



1 *persons, commits the robbery, is robbery of the first*
2 *degree.*

3 (d) All kinds of robbery other than those listed in
4 subdivisions (a)—~~and~~, (b), and (c) are of the second
5 degree.

6 *SEC. 2. Section 667.5 of the Penal Code is amended to*
7 *read:*

8 667.5. Enhancement of prison terms for new offenses
9 because of prior prison terms shall be imposed as follows:

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

21 (b) Except where subdivision (a) applies, where the
22 new offense is any felony for which a prison sentence is
23 imposed, in addition and consecutive to any other prison
24 terms therefor, the court shall impose a one-year term for
25 each prior separate prison term served for any felony;
26 provided that no additional term shall be imposed under
27 this subdivision for any prison term served prior to a
28 period of five years in which the defendant remained free
29 of both prison custody and the commission of an offense
30 which results in a felony conviction.

31 (c) For the purpose of this section, “violent felony”
32 means any of the following:

33 (1) Murder or voluntary manslaughter.

34 (2) Mayhem.

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

38 (4) Sodomy by force, violence, duress, menace, or fear
39 of immediate and unlawful bodily injury on the victim or
40 another person.



1 (5) Oral copulation by force, violence, duress, menace,
2 or fear of immediate and unlawful bodily injury on the
3 victim or another person.

4 (6) Lewd acts on a child under the age of 14 years as
5 defined in Section 288.

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

8 (8) Any felony in which the defendant inflicts great
9 bodily injury on any person other than an accomplice
10 which has been charged and proved as provided for in
11 Section 12022.7 or 12022.9 on or after July 1, 1977, or as
12 specified prior to July 1, 1977, in Sections 213, 264, and 461,
13 or any felony in which the defendant uses a firearm which
14 use has been charged and proved as provided in Section
15 12022.5, 12022.53, or 12022.55.

16 (9) Any robbery ~~perpetrated in an inhabited dwelling~~
17 ~~house, vessel, as defined in Section 21 of the Harbors and~~
18 ~~Navigation Code, which is inhabited and designed for~~
19 ~~habitation, an inhabited floating home as defined in~~
20 ~~subdivision (d) of Section 18075.55 of the Health and~~
21 ~~Safety Code, an inhabited trailer coach, as defined in the~~
22 ~~Vehicle Code, or in the inhabited portion of any other~~
23 ~~building, wherein it is charged and proved that the~~
24 ~~defendant personally used a deadly or dangerous~~
25 ~~weapon, as provided in subdivision (b) of Section 12022,~~
26 ~~in the commission of that robbery wherein it is charged~~
27 ~~and proved that the defendant personally used a deadly~~
28 ~~and dangerous weapon, as provided in subdivision (b) of~~
29 ~~Section 12022, in the commission of that robbery.~~

30 (10) Arson, in violation of subdivision (a) of Section
31 451.

32 (11) The offense defined in subdivision (a) of Section
33 289 where the act is accomplished against the victim's will
34 by force, violence, duress, menace, or fear of immediate
35 and unlawful bodily injury on the victim or another
36 person.

37 (12) Attempted murder.

38 (13) A violation of Section 12308.

39 (14) Kidnapping, in violation of subdivision (b) of
40 Section 207.



1 (15) Kidnapping, as punished in subdivision (b) of
2 Section 208.

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

5 (17) Carjacking, as defined in subdivision (a) of
6 Section 215, if it is charged and proved that the defendant
7 personally used a dangerous or deadly weapon as
8 provided in subdivision (b) of Section 12022 in the
9 commission of the carjacking.

10 (18) Any robbery of the first degree punishable
11 pursuant to subparagraph (A) of paragraph (1) of
12 subdivision (a) of Section 213.

13 (19) A violation of Section 264.1.

14 The Legislature finds and declares that these specified
15 crimes merit special consideration when imposing a
16 sentence to display society's condemnation for these
17 extraordinary crimes of violence against the person.

18 (d) For the purposes of this section, the defendant
19 shall be deemed to remain in prison custody for an offense
20 until the official discharge from custody or until release
21 on parole, whichever first occurs, including any time
22 during which the defendant remains subject to
23 reimprisonment for escape from custody or is
24 reimprisoned on revocation of parole. The additional
25 penalties provided for prior prison terms shall not be
26 imposed unless they are charged and admitted or found
27 true in the action for the new offense.

28 (e) The additional penalties provided for prior prison
29 terms shall not be imposed for any felony for which the
30 defendant did not serve a prior separate term in state
31 prison.

32 (f) A prior conviction of a felony shall include a
33 conviction in another jurisdiction for an offense which, if
34 committed in California, is punishable by imprisonment
35 in the state prison if the defendant served one year or
36 more in prison for the offense in the other jurisdiction. A
37 prior conviction of a particular felony shall include a
38 conviction in another jurisdiction for an offense which
39 includes all of the elements of the particular felony as
40 defined under California law if the defendant served one



1 year or more in prison for the offense in the other
2 jurisdiction.

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

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

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

23 (j) For the purposes of this section, when a person
24 subject to the custody, control, and discipline of the
25 Director of Corrections is incarcerated at a facility
26 operated by the Department of the Youth Authority, that
27 incarceration shall be deemed to be a term served in state
28 prison.

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

38 This subdivision shall not apply when a full, separate,
39 and consecutive term is imposed pursuant to any other
40 provision of law.



1 SEC. 3. Section 1170.95 of the Penal Code is amended
2 to read:

3 1170.95. (a) Notwithstanding Section 1170.1 relating
4 to the maximum total of subordinate terms for
5 consecutive offenses that are not “violent felonies,” the
6 total of the subordinate terms for consecutive offenses
7 that are all residential burglaries may exceed five years.

8 (b) Notwithstanding Section 1170.1 relating to the
9 maximum total of subordinate terms for consecutive
10 offenses that are not “violent felonies,” the total of the
11 subordinate terms for consecutive offenses that are all
12 residential robberies may exceed five years.

13 (c) Notwithstanding Section 1170.1 relating to the
14 maximum total of subordinate terms for consecutive
15 offenses that are not “violent felonies,” the total of the
16 subordinate terms for consecutive offenses that are all
17 residential arsons may exceed five years.

18 ~~(d) When a subordinate consecutive term of~~
19 ~~imprisonment is imposed pursuant to Sections 669 and~~
20 ~~1170 that involves one or more convictions for robbery~~
21 ~~where it is charged and found that in each of those~~
22 ~~robberies that the defendant personally used a deadly or~~
23 ~~dangerous weapon in the commission of that robbery, as~~
24 ~~provided in subdivision (b) of Section 12022, and each of~~
25 ~~those robberies is not a violent felony, as defined in~~
26 ~~subdivision (c) of Section 667.5, the aggregate term shall~~
27 ~~be calculated as provided in subdivision (a) of Section~~
28 ~~1170.1, except that the subordinate term for each~~
29 ~~subordinate robbery conviction shall consist of one-third~~
30 ~~of the middle term of imprisonment and one-third of the~~
31 ~~enhancement provided in subdivision (b) of Section~~
32 ~~12022. Notwithstanding Section 1170.1, the total of the~~
33 ~~subordinate terms imposed under this subdivision may~~
34 ~~exceed five years.~~

35 ~~(e) As used in this section, “residential burglary”~~
36 ~~means burglary of an inhabited dwelling house, an~~
37 ~~inhabited floating home as defined in subdivision (d) of~~
38 ~~Section 18075.55 of the Health and Safety Code, an~~
39 ~~inhabited trailer coach as defined in Section 635 of the~~



1 Vehicle Code, or the inhabited portion of any other
2 building.

3 ~~(f)~~

4 (e) As used in this section, “residential robbery”
5 means a robbery that is perpetrated in an inhabited
6 dwelling house, an inhabited floating home as defined in
7 subdivision (d) of Section 18075.55 of the Health and
8 Safety Code, an inhabited trailer coach as defined in
9 Section 635 of the Vehicle Code, or the inhabited portion
10 of any other building.

11 ~~(g)~~

12 (f) As used in this section, “residential arson” means
13 arson committed in violation of subdivision (b) of Section
14 451 where it is charged and proved that the defendant
15 intentionally set fire to or burned or caused the burning
16 of a distinct inhabited structure or a distinct inhabited
17 property in the commission of that offense.

18 *SEC. 4. No reimbursement is required by this act*
19 *pursuant to Section 6 of Article XIII B of the California*
20 *Constitution because the only costs that may be incurred*
21 *by a local agency or school district will be incurred*
22 *because this act creates a new crime or infraction,*
23 *eliminates a crime or infraction, or changes the penalty*
24 *for a crime or infraction, within the meaning of Section*
25 *17556 of the Government Code, or changes the definition*
26 *of a crime within the meaning of Section 6 of Article*
27 *XIII B of the California Constitution.*

28 *Notwithstanding Section 17580 of the Government*
29 *Code, unless otherwise specified, the provisions of this act*
30 *shall become operative on the same date that the act*
31 *takes effect pursuant to the California Constitution.*

32 ~~Code is amended to read:~~

33 ~~1522. The Legislature recognizes the need to~~
34 ~~generate timely and accurate positive fingerprint~~
35 ~~identification of applicants as a condition of issuing~~
36 ~~licenses, permits, or certificates of approval for persons to~~
37 ~~operate or provide direct care services in a community~~
38 ~~care facility, foster family home, or a certified family~~
39 ~~home. Therefore, the Legislature supports the use of the~~
40 ~~fingerprint live scan technology, as identified in the~~



1 long-range plan of the Department of Justice for fully
2 automating the processing of fingerprints and other data
3 by the year 1999, otherwise known as the California
4 Crime Information Intelligence System (CAL-CII), to be
5 used for applicant fingerprints. It is the intent of the
6 Legislature in enacting this section to require the
7 fingerprints of those individuals whose contact with
8 community care clients may pose a risk to the clients'
9 health and safety.

10 (a) Before issuing a license or special permit to any
11 person or persons to operate or manage a community
12 care facility, the State Department of Social Services shall
13 secure from an appropriate law enforcement agency a
14 criminal record to determine whether the applicant or
15 any other person specified in subdivision (b) has ever
16 been convicted of a crime other than a minor traffic
17 violation or arrested for any crime specified in Section 290
18 of the Penal Code, for violating Section 245 or 273.5,
19 subdivision (b) of Section 273a or, prior to January 1, 1994,
20 paragraph (2) of Section 273a of the Penal Code, or for
21 any crime for which the department cannot grant an
22 exemption if the person was convicted and the person has
23 not been exonerated. That criminal history information
24 shall include the full criminal record, of any of those
25 persons, and subsequent arrest information pursuant to
26 Section 11105.2 of the Penal Code. No fee shall be charged
27 by the Department of Justice or the State Department of
28 Social Services for the fingerprinting of an applicant for
29 a license or special permit to operate a facility providing
30 nonmedical board, room, and care for six or less children
31 or for obtaining a criminal record of the applicant
32 pursuant to this section. The following shall apply to the
33 criminal record information:

34 (1) If the State Department of Social Services finds
35 that the applicant, or any other person specified in
36 subdivision (b), has been convicted of a crime other than
37 a minor traffic violation, the application shall be denied,
38 unless the director grants an exemption pursuant to
39 subdivision (g).



1 ~~(2) If the State Department of Social Services finds~~
 2 ~~that the applicant, or any person specified in subdivision~~
 3 ~~(b) is awaiting trial for a crime other than a minor traffic~~
 4 ~~violation, the State Department of Social Services shall~~
 5 ~~cease processing the application until the conclusion of~~
 6 ~~the trial.~~

7 ~~(3) If no criminal record information has been~~
 8 ~~recorded, the Department of Justice shall provide the~~
 9 ~~applicant and the State Department of Social Services~~
 10 ~~with a statement of that fact.~~

11 ~~(4) If the State Department of Social Services finds~~
 12 ~~after licensure that the licensee, or any other person~~
 13 ~~specified in paragraph (2) of subdivision (b), has been~~
 14 ~~convicted of a crime other than a minor traffic violation;~~
 15 ~~the license may be revoked, unless the director grants an~~
 16 ~~exemption pursuant to subdivision (g).~~

17 ~~(b) In addition to the applicant, this section shall be~~
 18 ~~applicable to criminal convictions of the following~~
 19 ~~persons:~~

20 ~~(1) Adults responsible for administration or direct~~
 21 ~~supervision of staff.~~

22 ~~(2) Any person, other than a client, residing in the~~
 23 ~~facility.~~

24 ~~(3) Any person who provides client assistance in~~
 25 ~~dressing, grooming, bathing, or personal hygiene.~~

26 ~~(4) Any staff person or employee who has frequent~~
 27 ~~and routine contact with the clients. In determining who~~
 28 ~~has frequent contact, any volunteer who is in the facility~~
 29 ~~shall be exempt unless the volunteer is used to replace or~~
 30 ~~supplement staff in providing direct care and supervision~~
 31 ~~of clients. In determining who has routine contact, staff~~
 32 ~~and employees under direct onsite supervision and who~~
 33 ~~are not providing direct care and supervision or who have~~
 34 ~~only occasional or intermittent contact with clients shall~~
 35 ~~be exempt.~~

36 ~~(5) Except for staff members of social rehabilitation~~
 37 ~~facilities serving minors with alcohol or drug abuse~~
 38 ~~problems, staff members of social rehabilitation facilities,~~
 39 ~~other than those specified in paragraphs (1) and (2), are~~
 40 ~~exempt from fingerprinting requirements.~~



1 ~~(6) If the applicant is a firm, partnership, association,~~
2 ~~or corporation, the chief executive officer or other person~~
3 ~~serving in like capacity.~~

4 ~~(7) Additional officers of the governing body of the~~
5 ~~applicant, or other persons with a financial interest in the~~
6 ~~applicant, as determined necessary by the department by~~
7 ~~regulation. The criteria used in the development of these~~
8 ~~regulations shall be based on the person's capability to~~
9 ~~exercise substantial influence over the operation of the~~
10 ~~facility.~~

11 ~~(e) (1) Subsequent to initial licensure, any person~~
12 ~~specified in subdivision (b) and not exempted from~~
13 ~~fingerprinting shall, as a condition to employment,~~
14 ~~residence, or presence in a community care facility, be~~
15 ~~fingerprinted and sign a declaration under penalty of~~
16 ~~perjury regarding any prior criminal convictions. The~~
17 ~~licensee shall submit these fingerprints to the~~
18 ~~Department of Justice not later than four calendar days~~
19 ~~following employment, residence, or initial presence in~~
20 ~~the community care facility. These fingerprints shall be~~
21 ~~on a card provided by the State Department of Social~~
22 ~~Services for the purpose of obtaining a permanent set of~~
23 ~~fingerprints. Fingerprints not submitted to the~~
24 ~~Department of Justice, as required in this section, shall~~
25 ~~result in the citation of a deficiency and the fingerprints~~
26 ~~shall then be submitted to the State Department of Social~~
27 ~~Services for processing. Upon request of the licensee, who~~
28 ~~shall enclose a self-addressed stamped postcard for this~~
29 ~~purpose, the Department of Justice shall verify receipt of~~
30 ~~the fingerprints.~~

31 ~~(2) Within 30 calendar days of the receipt of the~~
32 ~~fingerprints, the Department of Justice shall notify the~~
33 ~~State Department of Social Services of the criminal~~
34 ~~record information, as provided for in subdivision (a). If~~
35 ~~no criminal record information has been recorded, the~~
36 ~~Department of Justice shall provide the licensee and the~~
37 ~~State Department of Social Services with a statement of~~
38 ~~that fact within 15 calendar days of receipt of the~~
39 ~~fingerprints. If new fingerprints are required for~~
40 ~~processing, the Department of Justice shall, within 15~~



1 calendar days from the date of receipt of the fingerprints,
2 notify the licensee that the fingerprints were illegible.

3 (3) Except for persons specified in paragraph (2) of
4 subdivision (b), the licensee shall endeavor to ascertain
5 the previous employment history of persons required to
6 be fingerprinted under this subdivision. If it is
7 determined by the State Department of Social Services,
8 on the basis of the fingerprints submitted to the
9 Department of Justice, that the person has been
10 convicted of, or is awaiting trial for, a sex offense against
11 a minor, or has been convicted for an offense specified in
12 Section 243.4, 273a, or 273d or subdivision (a) or (b) of
13 Section 368 of the Penal Code, or a felony, the State
14 Department of Social Services shall notify the licensee to
15 act immediately to terminate the person's employment,
16 remove the person from the community care facility, or
17 bar the person from entering the community care facility.
18 The State Department of Social Services may
19 subsequently grant an exemption pursuant to subdivision
20 (g). If the conviction or arrest was for another crime,
21 except a minor traffic violation, the licensee shall, upon
22 notification by the State Department of Social Services,
23 act immediately to either (1) terminate the person's
24 employment, remove the person from the community
25 care facility, or bar the person from entering the
26 community care facility; or (2) seek an exemption
27 pursuant to subdivision (g). The State Department of
28 Social Services shall determine if the person shall be
29 allowed to remain in the facility until a decision on the
30 exemption is rendered. A licensee's failure to comply
31 with the department's prohibition of employment,
32 contact with clients, or presence in the facility as required
33 by this paragraph shall be grounds for disciplining the
34 licensee pursuant to Section 1550.

35 (4) The department may issue an exemption on its
36 own motion pursuant to subdivision (g) if the person's
37 criminal history indicates that the person is of good
38 character based on the age, seriousness, and frequency of
39 the conviction or convictions. The department, in
40 consultation with interested parties, shall develop



1 ~~regulation to establish the criteria to grant an exemption~~
2 ~~pursuant to this paragraph.~~

3 ~~(5) Concurrently with notifying the licensee pursuant~~
4 ~~to paragraph (3), the department shall notify the affected~~
5 ~~individual of his or her right to seek an exemption~~
6 ~~pursuant to subdivision (g). The individual may seek an~~
7 ~~exemption only if the licensee terminates the person's~~
8 ~~employment or removes the person from the facility after~~
9 ~~receiving notice from the department pursuant to~~
10 ~~paragraph (3).~~

11 ~~(d) (1) Before issuing a license, special permit, or~~
12 ~~certificate of approval to any person or persons to operate~~
13 ~~or manage a foster family home or certified family home~~
14 ~~as described in Section 1506, the State Department of~~
15 ~~Social Services or other approving authority shall secure~~
16 ~~from an appropriate law enforcement agency a criminal~~
17 ~~record to determine whether the applicant or any person~~
18 ~~specified in subdivision (b) has ever been convicted of a~~
19 ~~crime other than a minor traffic violation or arrested for~~
20 ~~any crime specified in Section 290 of the Penal Code or~~
21 ~~arrested for violating Section 245 or 273.5, subdivision (b)~~
22 ~~of Section 273a or, prior to January 1, 1994, paragraph (2)~~
23 ~~of Section 273a of the Penal Code, or for any crime for~~
24 ~~which the department cannot grant an exemption if the~~
25 ~~person was convicted and the person has not been~~
26 ~~exonerated. That criminal history information shall~~
27 ~~include the full criminal record, if any, of those persons.~~
28 ~~No fee shall be charged by the Department of Justice or~~
29 ~~the State Department of Social Services for the~~
30 ~~fingerprinting of an applicant for a license, special~~
31 ~~permit, or certificate of approval described in this~~
32 ~~subdivision. The record, if any, shall be taken into~~
33 ~~consideration when evaluating a prospective applicant.~~
34 ~~The following shall apply to the criminal record~~
35 ~~information:~~

36 ~~(A) If the applicant or other persons specified in~~
37 ~~subdivision (b) have convictions that would make the~~
38 ~~applicant's home unfit as a foster family home or a~~
39 ~~certified family home, the license, special permit, or~~
40 ~~certificate of approval shall be denied.~~



1 ~~(B) If the State Department of Social Services finds~~
2 ~~that the applicant, or any person specified in subdivision~~
3 ~~(b) is awaiting trial for a crime other than a minor traffic~~
4 ~~violation, the State Department of Social Services or~~
5 ~~other approving authority shall cease processing the~~
6 ~~application until the conclusion of the trial.~~

7 ~~(C) For the purposes of this subdivision, a criminal~~
8 ~~record clearance provided under Section 8712 of the~~
9 ~~Family Code may be used by the department or other~~
10 ~~approving agency.~~

11 ~~(2) Any person specified in this subdivision shall, as a~~
12 ~~part of the application, be fingerprinted and sign a~~
13 ~~declaration under penalty of perjury regarding any prior~~
14 ~~criminal convictions or arrests for any crime against a~~
15 ~~child, spousal or cohabitant abuse or, any crime for which~~
16 ~~the department cannot grant an exemption if the person~~
17 ~~was convicted and shall submit these fingerprints to the~~
18 ~~licensing agency or other approving authority.~~

19 ~~(3) The foster family agency shall obtain fingerprints~~
20 ~~from certified home applicants and from persons~~
21 ~~specified in subdivision (b) and shall submit them~~
22 ~~directly to the Department of Justice. Within five~~
23 ~~working days of the receipt of the criminal record or~~
24 ~~information regarding criminal convictions from the~~
25 ~~Department of Justice, the department shall notify the~~
26 ~~applicant of any criminal arrests or convictions. If no~~
27 ~~arrests or convictions are recorded, the Department of~~
28 ~~Justice shall provide the foster family agency with a~~
29 ~~statement of that fact concurrent with providing the~~
30 ~~information to the State Department of Social Services.~~

31 ~~(4) If the State Department of Social Services finds~~
32 ~~that the applicant, or any other person specified in~~
33 ~~subdivision (b), has been convicted of a crime other than~~
34 ~~a minor traffic violation, the application shall be denied;~~
35 ~~unless the director grants an exemption pursuant to~~
36 ~~subdivision (g).~~

37 ~~(5) If the State Department of Social Services finds~~
38 ~~after licensure or the granting of the certificate of~~
39 ~~approval that the licensee, certified foster parent, or any~~
40 ~~other person specified in paragraph (2) of subdivision~~



1 ~~(b), has been convicted of a crime other than a minor~~
2 ~~traffic violation, the license or certificate of approval may~~
3 ~~be revoked by the department or the foster family~~
4 ~~agency, whichever is applicable, unless the director~~
5 ~~grants an exemption pursuant to subdivision (g). A~~
6 ~~licensee's failure to comply with the department's~~
7 ~~prohibition of employment, contact with clients, or~~
8 ~~presence in the facility as required by paragraph (3) of~~
9 ~~subdivision (c) shall be grounds for disciplining the~~
10 ~~licensee pursuant to Section 1550.~~

11 ~~(e) The State Department of Social Services shall not~~
12 ~~use a record of arrest to deny, revoke, or terminate any~~
13 ~~application, license, employment, or residence unless the~~
14 ~~department investigates the incident and secures~~
15 ~~evidence, whether or not related to the incident of arrest,~~
16 ~~that is admissible in an administrative hearing to establish~~
17 ~~conduct by the person that may pose a risk to the health~~
18 ~~and safety of any person who is or may become a client.~~
19 ~~The State Department of Social Services is authorized to~~
20 ~~obtain any arrest or conviction records or reports from~~
21 ~~any law enforcement agency as necessary to the~~
22 ~~performance of its duties to inspect, license, and~~
23 ~~investigate community care facilities and individuals~~
24 ~~associated with a community care facility.~~

25 ~~(f) For purposes of this section or any other provision~~
26 ~~of this chapter, a conviction means a plea or verdict of~~
27 ~~guilty or a conviction following a plea of nolo contendere.~~
28 ~~Any action which the State Department of Social Services~~
29 ~~is permitted to take following the establishment of a~~
30 ~~conviction may be taken when the time for appeal has~~
31 ~~elapsed, or the judgment of conviction has been affirmed~~
32 ~~on appeal or when an order granting probation is made~~
33 ~~suspending the imposition of sentence, notwithstanding~~
34 ~~a subsequent order pursuant to Sections 1203.4 and~~
35 ~~1203.4a of the Penal Code permitting the person to~~
36 ~~withdraw his or her plea of guilty and to enter a plea of~~
37 ~~not guilty, or setting aside the verdict of guilty, or~~
38 ~~dismissing the accusation, information, or indictment.~~
39 ~~For purposes of this section or any other provision of this~~
40 ~~chapter, the record of a conviction, or a copy thereof~~



1 ~~certified by the clerk of the court or by a judge of the~~
2 ~~court in which the conviction occurred, shall be~~
3 ~~conclusive evidence of the conviction. For purposes of~~
4 ~~this section or any other provision of this chapter, the~~
5 ~~arrest disposition report certified by the Department of~~
6 ~~Justice, or documents admissible in a criminal action~~
7 ~~pursuant to Section 969b of the Penal Code, shall be prima~~
8 ~~facie evidence of the conviction, notwithstanding any~~
9 ~~other provision of law prohibiting the admission of these~~
10 ~~documents in a civil or administrative action.~~

11 ~~(g) (1) (A) After review of the record, the director~~
12 ~~may grant an exemption from disqualification for a~~
13 ~~license or special permit as specified in paragraphs (1)~~
14 ~~and (4) of subdivision (a), or for a license, special permit,~~
15 ~~or certificate of approval as specified in paragraphs (4)~~
16 ~~and (5) of subdivision (d), or for employment, residence,~~
17 ~~or presence in a community care facility as specified in~~
18 ~~paragraphs (3), (4), and (5) of subdivision (e), if the~~
19 ~~director has substantial and convincing evidence to~~
20 ~~support a reasonable belief that the applicant and the~~
21 ~~person convicted of the crime, if other than the applicant,~~
22 ~~are of such good character as to justify issuance of the~~
23 ~~license or special permit or granting an exemption for~~
24 ~~purposes of subdivision (e).~~

25 ~~(B) Except as otherwise provided in this subdivision,~~
26 ~~no exemption shall be granted pursuant to this~~
27 ~~subdivision if the conviction was for an offense specified~~
28 ~~in Section 220, 243.4, or 264.1, subdivision (a) of Section~~
29 ~~273a or, prior to January 1, 1994, paragraph (1) of Section~~
30 ~~273a, Section 273d, 288, or 289, subdivision (a) of Section~~
31 ~~290, or subdivision (a) or (b) of Section 368 of the Penal~~
32 ~~Code, or was a conviction of another crime against an~~
33 ~~individual specified in subdivision (e) of Section 667.5 of~~
34 ~~the Penal Code.~~

35 ~~(C) The director may grant an exemption if the~~
36 ~~employee or prospective employee was convicted of a~~
37 ~~crime against an individual prescribed by subdivision (e)~~
38 ~~of Section 667.5 if all of the following apply as to that~~
39 ~~person:~~



1 ~~(i) The person was not convicted of any of the~~
2 ~~following offenses:~~

3 ~~(I) A crime set forth in paragraphs (6) to (13),~~
4 ~~inclusive, of subdivision (c) of Section 667.5 of the Penal~~
5 ~~Code.~~

6 ~~(II) A violation of Section 220 of the Penal Code other~~
7 ~~than assault with intent to commit mayhem.~~

8 ~~(III) A violation of Section 207 or 209 of the Penal Code~~
9 ~~with the intent to commit a violation of Section 261, 262,~~
10 ~~286, 288, 288a, or 289 of the Penal Code.~~

11 ~~(ii) The person has been rehabilitated as provided in~~
12 ~~Section 4852.03 of the Penal Code.~~

13 ~~(iii) The person has maintained the conduct required~~
14 ~~in Section 4852.05 of the Penal Code for at least 10 years.~~

15 ~~(iv) The person either has the recommendation of the~~
16 ~~district attorney representing the employee's county of~~
17 ~~residence, or the employee or prospective employee has~~
18 ~~received a certificate of rehabilitation pursuant to~~
19 ~~Chapter 3.5 (commencing with Section 4852.01) of Title~~
20 ~~6 of Part 3 of the Penal Code.~~

21 ~~(2) The department shall not prohibit a person from~~
22 ~~being employed or having contact with clients in a facility~~
23 ~~on the basis of a denied criminal record exemption~~
24 ~~request or arrest information unless the department~~
25 ~~complies with the requirements of Section 1558.~~

26 ~~(h) (1) For purposes of compliance with this section,~~
27 ~~the department may permit an individual to transfer a~~
28 ~~current criminal records clearance, as defined in~~
29 ~~subdivision (a), from one facility to another, as long as the~~
30 ~~criminal record clearance has been processed through a~~
31 ~~state licensing district office, and is being transferred to~~
32 ~~another state licensing district office.~~

33 ~~(2) The State Department of Social Services shall hold~~
34 ~~criminal record clearances in its active files for a~~
35 ~~minimum of two years after an employee is no longer~~
36 ~~employed at a licensed facility in order for the criminal~~
37 ~~record clearance to be transferred.~~

38 ~~(i) The full criminal record obtained for purposes of~~
39 ~~this section may be used by the department or by a~~



1 ~~licensed adoption agency as a clearance required for~~
2 ~~adoption purposes.~~

3 ~~(j) If a licensee or facility is required by law to deny~~
4 ~~employment or to terminate employment of any~~
5 ~~employee based on written notification from the state~~
6 ~~department that the employee has a prior criminal~~
7 ~~conviction or is determined unsuitable for employment~~
8 ~~under Section 1558, the licensee or facility shall not incur~~
9 ~~civil liability or unemployment insurance liability as a~~
10 ~~result of that denial or termination.~~

11 ~~(k) (1) In order to expedite the current criminal~~
12 ~~record clearance and fingerprint process of the~~
13 ~~Department of Justice pursuant to subdivisions (a) and~~
14 ~~(c), the Department of Justice shall complete work on all~~
15 ~~of its current backlog of criminal records clearances for~~
16 ~~community care facilities licensed by the State~~
17 ~~Department of Social Services by July 1, 1995.~~

18 ~~(2) Effective January 1, 1995, the Department of~~
19 ~~Justice shall complete all new requests for criminal record~~
20 ~~clearances for community care facilities within 30 days of~~
21 ~~receipt.~~

22 ~~(3) The Department of Justice shall coordinate with~~
23 ~~the State Department of Social Services to establish and~~
24 ~~implement an automated live-scan processing system for~~
25 ~~fingerprints in two district offices of the Community Care~~
26 ~~Licensing Division of the State Department of Social~~
27 ~~Services by July 1, 1995. These live-scan processing units~~
28 ~~shall be connected to the main system at the Department~~
29 ~~of Justice by July 1, 1996, and shall become part of that~~
30 ~~department's pilot project in accordance with its~~
31 ~~long-range plan. The State Department of Social Services~~
32 ~~may charge a fee not to exceed five dollars (\$5) or the~~
33 ~~actual cost of processing a set of live-scan fingerprints.~~

34 ~~(4) The Department of Justice shall provide a report~~
35 ~~to the Assembly Human Services Committee and to the~~
36 ~~Senate Health and Human Services Committee by July~~
37 ~~15, 1995, regarding the completion of backlogged~~
38 ~~criminal record clearance requests pursuant to~~
39 ~~paragraph (1) and the progress on implementing the~~
40 ~~automated live-scan processing system in the two district~~



1 offices pursuant to paragraph (3). The Department of
2 Justice shall provide a report to the Assembly Human
3 Services Committee and to the Senate Health and
4 Human Services Committee by April 15, 1996, regarding
5 the progress of the implementation of the statewide
6 CAL CH system; the number of requests for criminal
7 clearances received pursuant to this section during the
8 previous year; the number of criminal record clearances
9 requested and completed pursuant to this section within
10 a 17-day "expedite" period or within the 30-day period
11 required by paragraph (2); and the number of requests
12 and reasons for delays beyond the 30-day period.

13 SEC. 2. Section 212.5 of the Penal Code is amended to
14 read:

15 212.5. (a) Every robbery of any person who is
16 performing his or her duties as an operator of any bus,
17 taxicab, cable car, streetcar, trackless trolley, or other
18 vehicle, including a vehicle operated on stationary rails or
19 on a track or rail suspended in the air, and used for the
20 transportation of persons for hire, every robbery of any
21 passenger which is perpetrated on any of these vehicles;
22 and every robbery which is perpetrated in an inhabited
23 dwelling house, a vessel as defined in Section 21 of the
24 Harbors and Navigation Code which is inhabited and
25 designed for habitation, an inhabited floating home as
26 defined in subdivision (d) of Section 18075.55 of the
27 Health and Safety Code, a trailer coach as defined in the
28 Vehicle Code which is inhabited, or the inhabited portion
29 of any other building is robbery of the first degree.

30 (b) Every robbery of any person while using an
31 automated teller machine or immediately after the
32 person has used an automated teller machine and is in the
33 vicinity of the automated teller machine is robbery of the
34 first degree.

35 (c) Every robbery where the defendant, voluntarily
36 acting in concert with one or more other persons;
37 personally, or by aiding or abetting another person or
38 persons, commits the robbery, is robbery of the first
39 degree.



1 ~~(d) All kinds of robbery other than those listed in~~
2 ~~subdivisions (a), (b), and (c) are of the second degree.~~

3 ~~SEC. 3. Section 213 of the Penal Code is amended to~~
4 ~~read:~~

5 ~~213. (a) Robbery is punishable as follows:~~

6 ~~(1) Robbery of the first degree is punishable as follows:~~

7 ~~(A) If the defendant, voluntarily acting in concert~~
8 ~~with one or more other persons, commits the robbery~~
9 ~~within an inhabited dwelling house, a vessel as defined in~~
10 ~~Section 21 of the Harbors and Navigation Code, which is~~
11 ~~inhabited and designed for habitation, an inhabited~~
12 ~~floating home as defined in subdivision (d) of Section~~
13 ~~18075.55 of the Health and Safety Code, a trailer coach as~~
14 ~~defined in the Vehicle Code, which is inhabited, or the~~
15 ~~inhabited portion of any other building, by imprisonment~~
16 ~~in the state prison for three, six, or nine years.~~

17 ~~(B) In all cases other than that specified in~~
18 ~~subparagraph (A), by imprisonment in the state prison~~
19 ~~for three, four, or six years.~~

20 ~~(2) Robbery of the second degree is punishable by~~
21 ~~imprisonment in the state prison for two, three, or five~~
22 ~~years.~~

23 ~~(b) Notwithstanding Section 664, attempted robbery~~
24 ~~in violation of paragraph (2) of subdivision (a) is~~
25 ~~punishable by imprisonment in the state prison.~~

26 ~~SEC. 4. Section 667.5 of the Penal Code is amended to~~
27 ~~read:~~

28 ~~667.5. Enhancement of prison terms for new offenses~~
29 ~~because of prior prison terms shall be imposed as follows:~~

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

1 ~~(b) Except where subdivision (a) applies, where the~~
2 ~~new offense is any felony for which a prison sentence is~~
3 ~~imposed, in addition and consecutive to any other prison~~
4 ~~terms therefor, the court shall impose a one-year term for~~
5 ~~each prior separate prison term served for any felony;~~
6 ~~provided that no additional term shall be imposed under~~
7 ~~this subdivision for any prison term served prior to a~~
8 ~~period of five years in which the defendant remained free~~
9 ~~of both prison custody and the commission of an offense~~
10 ~~which results in a felony conviction.~~

11 ~~(e) For the purpose of this section, “violent felony”~~
12 ~~means any of the following:~~

13 ~~(1) Murder.~~

14 ~~(2) Voluntary manslaughter.~~

15 ~~(3) Attempted murder.~~

16 ~~(4) Mayhem.~~

17 ~~(5) Kidnapping.~~

18 ~~(6) Rape as defined in paragraph (2) or (6) of~~
19 ~~subdivision (a) of Section 261.~~

20 ~~(7) Spousal rape, as defined in paragraph (1) or (4) of~~
21 ~~subdivision (a) of Section 262.~~

22 ~~(8) Sodomy by force, violence, duress, menace, or fear~~
23 ~~of immediate and unlawful bodily injury on the victim or~~
24 ~~another person.~~

25 ~~(9) Oral copulation by force, violence, duress, menace,~~
26 ~~or fear of immediate and unlawful bodily injury on the~~
27 ~~victim or another person.~~

28 ~~(10) Lewd acts on a child under the age of 14 years as~~
29 ~~defined in Section 288.~~

30 ~~(11) Continuous sexual abuse of a child, in violation of~~
31 ~~Section 288.5.~~

32 ~~(12) The offense defined in subdivision (a) of Section~~
33 ~~289 where the act is accomplished against the victim’s will~~
34 ~~by force, violence, duress, menace, or fear of immediate~~
35 ~~and unlawful bodily injury on the victim or another~~
36 ~~person.~~

37 ~~(13) A violation of Section 264.1.~~

38 ~~(14) Any robbery wherein it is charged and proved~~
39 ~~that the defendant was either armed with a firearm, as~~
40 ~~provided in Section 12022, or that the defendant~~



1 personally used a deadly or dangerous weapon, as
2 provided in subdivision (b) of Section 12022, in the
3 commission of that robbery.

4 (15) Any robbery of the first degree punishable
5 pursuant to subparagraph (A) of paragraph (1) of
6 subdivision (a) of Section 213.

7 (16) Any robbery of the first degree in violation of
8 subdivision (e) of Section 212.5.

9 (17) Any carjacking wherein it is charged and proved
10 that the defendant was either armed with a firearm, as
11 provided in Section 12022, or that the defendant
12 personally used a deadly or dangerous weapon, as
13 provided in subdivision (b) of Section 12022, in the
14 commission of that carjacking.

15 (18) A violation of Section 220.

16 (19) A violation of Section 244.

17 (20) Arson, in violation of subdivision (a) of Section
18 451.

19 (21) Any arson committed in violation of subdivision
20 (b) of Section 451 where it is charged and proved that the
21 defendant intentionally set fire to, or burned, or caused
22 the burning of, a distinct inhabited structure or a distinct
23 inhabited property in the commission of that offense.

24 (22) Any arson wherein it is charged and proved that
25 the defendant was armed with a firearm, as provided in
26 Section 12022, in the commission of that arson.

27 (23) Any burglary of the first degree wherein it is
28 charged and proved that the defendant was either armed
29 with a firearm, as provided in Section 12022, or that the
30 defendant personally used a deadly or dangerous
31 weapon, as provided in subdivision (b) of Section 12022,
32 in the commission of that burglary.

33 (24) A violation of Section 12022.53.

34 (25) Any felony in which the defendant inflicts great
35 bodily injury on any person other than an accomplice
36 which has been charged and proved as provided for in
37 Section 12022.7 or 12022.9 on or after July 1, 1977, or as
38 specified prior to July 1, 1977, in Sections 213, 264, and 461,
39 or any felony in which the defendant uses a firearm which



1 ~~use has been charged and proved as provided in Section~~
2 ~~12022.5, 12022.53, or 12022.55.~~

3 ~~(26) A violation of Section 12308.~~

4 ~~(27) A violation of Section 12309.~~

5 ~~(28) Any felony punishable by death.~~

6 ~~(29) Any felony punishable by imprisonment in the~~
7 ~~state prison for a maximum term of life.~~

8 ~~The Legislature finds and declares that these specified~~
9 ~~crimes merit special consideration when imposing a~~
10 ~~sentence to display society's condemnation for these~~
11 ~~extraordinary crimes of violence against the person.~~

12 ~~(d) For the purposes of this section, the defendant~~
13 ~~shall be deemed to remain in prison custody for an offense~~
14 ~~until the official discharge from custody or until release~~
15 ~~on parole, whichever first occurs, including any time~~
16 ~~during which the defendant remains subject to~~
17 ~~reimprisonment for escape from custody or is~~
18 ~~reimprisoned on revocation of parole. The additional~~
19 ~~penalties provided for prior prison terms shall not be~~
20 ~~imposed unless they are charged and admitted or found~~
21 ~~true in the action for the new offense.~~

22 ~~(e) The additional penalties provided for prior prison~~
23 ~~terms shall not be imposed for any felony for which the~~
24 ~~defendant did not serve a prior separate term in state~~
25 ~~prison.~~

26 ~~(f) A prior conviction of a felony shall include a~~
27 ~~conviction in another jurisdiction for an offense which, if~~
28 ~~committed in California, is punishable by imprisonment~~
29 ~~in the state prison if the defendant served one year or~~
30 ~~more in prison for the offense in the other jurisdiction. A~~
31 ~~prior conviction of a particular felony shall include a~~
32 ~~conviction in another jurisdiction for an offense which~~
33 ~~includes all of the elements of the particular felony as~~
34 ~~defined under California law if the defendant served one~~
35 ~~year or more in prison for the offense in the other~~
36 ~~jurisdiction.~~

37 ~~(g) A prior separate prison term for the purposes of~~
38 ~~this section shall mean a continuous completed period of~~
39 ~~prison incarceration imposed for the particular offense~~
40 ~~alone or in combination with concurrent or consecutive~~



1 sentences for other crimes, including any
2 reimprisonment on revocation of parole which is not
3 accompanied by a new commitment to prison, and
4 including any reimprisonment after an escape from
5 incarceration.

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

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

17 (j) ~~For the purposes of this section, when a person~~
18 ~~subject to the custody, control, and discipline of the~~
19 ~~Director of Corrections is incarcerated at a facility~~
20 ~~operated by the Department of the Youth Authority, that~~
21 ~~incarceration shall be deemed to be a term served in state~~
22 ~~prison.~~

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

32 ~~This subdivision shall not apply when a full, separate,~~
33 ~~and consecutive term is imposed pursuant to any other~~
34 ~~provision of law.~~

35 ~~SEC. 5. Section 1170.95 of the Penal Code is amended~~
36 ~~to read:~~

37 ~~1170.95. (a) Notwithstanding Section 1170.1 relating~~
38 ~~to the maximum total of subordinate terms for~~
39 ~~consecutive offenses that are not "violent felonies," the~~



1 ~~total of the subordinate terms for consecutive offenses~~
2 ~~that are all residential burglaries may exceed five years.~~

3 ~~(b) Notwithstanding Section 1170.1 relating to the~~
4 ~~maximum total of subordinate terms for consecutive~~
5 ~~offenses that are not “violent felonies,” the total of the~~
6 ~~subordinate terms for consecutive offenses that are all~~
7 ~~residential robberies may exceed five years.~~

8 ~~(c) As used in this section, “residential burglary”~~
9 ~~means burglary of an inhabited dwelling house, a vessel,~~
10 ~~as defined in the Harbors and Navigation Code, which is~~
11 ~~inhabited and designed for habitation, an inhabited~~
12 ~~floating home as defined in subdivision (d) of Section~~
13 ~~18075.55 of the Health and Safety Code, an inhabited~~
14 ~~trailer coach as defined in Section 635 of the Vehicle~~
15 ~~Code, or the inhabited portion of any other building.~~

16 ~~(d) As used in this section, “residential robbery”~~
17 ~~means a robbery that is perpetrated in an inhabited~~
18 ~~dwelling house, a vessel, as defined in the Harbors and~~
19 ~~Navigation Code, which is inhabited and designed for~~
20 ~~habitation, an inhabited floating home as defined in~~
21 ~~subdivision (d) of Section 18075.55 of the Health and~~
22 ~~Safety Code, an inhabited trailer coach as defined in~~
23 ~~Section 635 of the Vehicle Code, or the inhabited portion~~
24 ~~of any other building.~~

25 ~~SEC. 6. Section 3003 of the Penal Code is amended to~~
26 ~~read:~~

27 ~~3003. (a) Except as otherwise provided in this~~
28 ~~section, an inmate who is released on parole shall be~~
29 ~~returned to the county that was the last legal residence~~
30 ~~of the inmate prior to his or her incarceration.~~

31 ~~For purposes of this subdivision, “last legal residence”~~
32 ~~shall not be construed to mean the county wherein the~~
33 ~~inmate committed an offense while confined in a state~~
34 ~~prison or local jail facility or while confined for treatment~~
35 ~~in a state hospital.~~

36 ~~(b) Notwithstanding subdivision (a), an inmate may~~
37 ~~be returned to another county if that would be in the best~~
38 ~~interests of the public. If the Board of Prison Terms~~
39 ~~setting the conditions of parole for inmates sentenced~~
40 ~~pursuant to subdivision (b) of Section 1168, or the~~



1 Department of Corrections setting the conditions of
2 parole for inmates sentenced pursuant to Section 1170,
3 decides on a return to another county, it shall place its
4 reasons in writing in the parolee's permanent record and
5 include these reasons in the notice to the sheriff or chief
6 of police pursuant to Section 3058.6. In making its
7 decision, the paroling authority shall consider, among
8 others, the following factors, giving the greatest weight to
9 the protection of the victim and the safety of the
10 community:

11 (1) The need to protect the life or safety of a victim,
12 the parolee, a witness, or any other person.

13 (2) Public concern that would reduce the chance that
14 the inmate's parole would be successfully completed.

15 (3) The verified existence of a work offer, or an
16 educational or vocational training program.

17 (4) The existence of family in another county with
18 whom the inmate has maintained strong ties and whose
19 support would increase the chance that the inmate's
20 parole would be successfully completed.

21 (5) The lack of necessary outpatient treatment
22 programs for parolees receiving treatment pursuant to
23 Section 2960.

24 (e) The Department of Corrections, in determining
25 an out-of-county commitment, shall give priority to the
26 safety of the community and any witnesses and victims.

27 (d) In making its decision about an inmate who
28 participated in a joint venture program pursuant to
29 Article 1.5 (commencing with Section 2717.1) of Chapter
30 5, the paroling authority shall give serious consideration
31 to releasing him or her to the county where the joint
32 venture program employer is located if that employer
33 states to the paroling authority that he or she intends to
34 employ the inmate upon release.

35 (e) (1) The following information, if available, shall
36 be released by the Department of Corrections to local law
37 enforcement agencies regarding a paroled inmate who is
38 released in their jurisdictions:

39 (A) Last, first, and middle name.

40 (B) Birth date.



- 1 ~~(C) Sex, race, height, weight, and hair and eye color.~~
2 ~~(D) Date of parole and discharge.~~
3 ~~(E) Registration status, if the inmate is required to~~
4 ~~register as a result of a controlled substance, sex, or arson~~
5 ~~offense.~~
6 ~~(F) California Criminal Information Number, FBI~~
7 ~~number, social security number, and driver's license~~
8 ~~number.~~
9 ~~(G) County of commitment.~~
10 ~~(H) A description of scars, marks, and tattoos on the~~
11 ~~inmate.~~
12 ~~(I) Offense or offenses for which the inmate was~~
13 ~~convicted that resulted in parole in this instance.~~
14 ~~(J) Address, including all of the following information:~~
15 ~~(i) Street name and number. Post office box numbers~~
16 ~~are not acceptable for purposes of this subparagraph.~~
17 ~~(ii) City and ZIP Code.~~
18 ~~(iii) Date the address as provided pursuant to this~~
19 ~~subparagraph was proposed to be effective.~~
20 ~~(K) Contact officer and unit, including all of the~~
21 ~~following information:~~
22 ~~(i) Name and telephone number of each contact~~
23 ~~officer.~~
24 ~~(ii) Contact unit type of each contact officer such as~~
25 ~~units responsible for parole, registration, or county~~
26 ~~probation.~~
27 ~~(L) A digitized image of the photograph and at least~~
28 ~~a single digit fingerprint of the parolee.~~
29 ~~(M) A geographic coordinate for the parolee's~~
30 ~~residence location for use with a Geographical~~
31 ~~Information System (GIS) or comparable computer~~
32 ~~program.~~
33 ~~(2) The information required by this subdivision shall~~
34 ~~come from the statewide parolee data base. The~~
35 ~~information obtained from each source shall be based on~~
36 ~~the same timeframe.~~
37 ~~(3) All of the information required by this subdivision~~
38 ~~shall be provided utilizing a computer-to-computer~~
39 ~~transfer in a format usable by a desktop computer system.~~

1 ~~The transfer of this information shall be continually~~
2 ~~available to local law enforcement agencies upon request.~~

3 ~~(4) The unauthorized release or receipt of the~~
4 ~~information described in this subdivision is a violation of~~
5 ~~Section 11143.~~

6 ~~(f) Notwithstanding any other law, an inmate who is~~
7 ~~released on parole shall not be returned to a location~~
8 ~~within 35 miles of the actual residence of a victim of, or~~
9 ~~a witness to, a violent felony as defined in paragraphs (1)~~
10 ~~to (13), inclusive, and paragraphs (18), (28), and (29) of~~
11 ~~subdivision (c) of Section 667.5 or a felony in which the~~
12 ~~defendant inflicts great bodily injury on any person other~~
13 ~~than an accomplice that has been charged and proved as~~
14 ~~provided for in Section 12022.7 or 12022.9, if the victim or~~
15 ~~witness has requested additional distance in the~~
16 ~~placement of the inmate on parole, and if the Board of~~
17 ~~Prison Terms or the Department of Corrections finds that~~
18 ~~there is a need to protect the life, safety, or well-being of~~
19 ~~a victim or witness.~~

20 ~~(g) The authority shall give consideration to the~~
21 ~~equitable distribution of parolees and the proportion of~~
22 ~~out-of-county commitments from a county compared to~~
23 ~~the number of commitments from that county when~~
24 ~~making parole decisions.~~

25 ~~(h) An inmate may be paroled to another state~~
26 ~~pursuant to any other law.~~

27 ~~(i) (1) Except as provided in paragraph (2), the~~
28 ~~Department of Corrections shall be the agency primarily~~
29 ~~responsible for, and shall have control over, the program,~~
30 ~~resources, and staff implementing the Law Enforcement~~
31 ~~Automated Data System (LEADS) in conformance with~~
32 ~~subdivision (c).~~

33 ~~(2) Notwithstanding paragraph (1), the Department~~
34 ~~of Justice shall be the agency primarily responsible for the~~
35 ~~proper release of information under LEADS that relates~~
36 ~~to fingerprint cards.~~

37 ~~SEC. 7. No reimbursement is required by this act~~
38 ~~pursuant to Section 6 of Article XIII B of the California~~
39 ~~Constitution because the only costs that may be incurred~~
40 ~~by a local agency or school district will be incurred~~



1 ~~because this act creates a new crime or infraction,~~
2 ~~eliminates a crime or infraction, or changes the penalty~~
3 ~~for a crime or infraction, within the meaning of Section~~
4 ~~17556 of the Government Code, or changes the definition~~
5 ~~of a crime within the meaning of Section 6 of Article~~
6 ~~XIII B of the California Constitution.~~

7 ~~Notwithstanding Section 17580 of the Government~~
8 ~~Code, unless otherwise specified, the provisions of this act~~
9 ~~shall become operative on the same date that the act~~
10 ~~takes effect pursuant to the California Constitution.~~

