Hearing Date: July 31, 2009
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ITEM 7

TEST CLAIM
FINAL STAFF ANALYSIS

Penal Code Sections 12025, 12031, 13012, 13014, 13020, 13021, 13023 and 13730
Statutes 1955, Chapter 1128; Statutes 1965, Chapters 238 and 1965; Statutes 1967, Chapter 1157; Statutes 1971, Chapter 1203; Statutes 1972, Chapter 1377; Statutes 1979, Chapter 255 and 860; Statutes 1980, Chapter 1340 (SB 1447); Statutes 1982, Resolution Chapter 147 (SCR 64); Statutes 1984, Chapter 1609 (SB 1472); Statutes 1989, Chapter 1172 (SB 202); Statutes 1992, Chapter 1338 (SB 1184); Statutes 1993, Chapter 1230 (AB 2250); Statutes 1995, Chapters 803 and 965 (AB 488 and SB 132); Statutes 1996, Chapter 872 (AB 3472); Statutes 1998, Chapter 933 (AB 1999); Statutes 1999, Chapter 571 (AB 491); Statutes 2000, Chapter 626 (AB 715); Statutes 2001, Chapters 468 and 483 (SB 314 and AB 469); Statutes 2004, Chapters 405 and 700 (SB 1796 and SB 1234) and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements and Requirements Spreadsheet, March 2000

Crime Statistics Reports for the Department of Justice
07-TC-10
(Amendment to 02-TC-04 and 02-TC-11)

City of Newport Beach and County of Sacramento, Claimants

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Crime Statistics Reports for the Department of Justice
07-TC-10
(Amendment to 02-TC-04 and 02-TC-11)

City of Newport Beach and County of Sacramento, Co-claimants

EXECUTIVE SUMMARY

This test claim alleges crime statistics reporting activities of local law enforcement agencies. The claim was originally filed as an amendment to, and severed from, test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice,* by the same co-claimants, which the Commission determined impose a reimbursable program on June 26, 2008.

The co-claimants and the Department of Finance submitted comments concurring with the draft staff analysis.

CONCLUSION

Based on the analysis below, staff finds that Penal Code section 13023 (Stats. 2004, ch. 700) imposes a reimbursable state-mandated program, within the meaning of article XIII B, section 6 of the California Constitution, on local law enforcement agencies beginning January 1, 2004, to report the following in a manner to be prescribed by the Attorney General:

- Any information that may be required relative to hate crimes, as defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of one or more of the following *perceived* characteristics of the victim: (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.
- Any information that may be required relative to hate crimes, defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of *association with a person or group with one or more of the following actual or perceived*

characteristics: (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.

Staff further finds that Penal Code sections 13020 and 13021 (Statutes 1955, chapter 1128, Statutes 1965, chapter 238, Statutes 1965, chapter 1916, Statutes 1967, chapter 1157, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1996, chapter 872) are not reimbursable state mandates within the meaning of article XIII B, section 6 of the California constitution because they existed before 1975, and impose no new activities on local agencies.

As to Statutes 1971, chapter 1203, staff finds that, because it amended only Penal Code section 13010, which is not part of this test claim, the Commission does not have jurisdiction over it.

Staff finds that Statutes 2004, chapters 405 (amending Pen. Code, § 13014, homicide reports) is not a state mandate because it does not require a local agency activity.

Staff also finds that the Commission does not have jurisdiction over the remaining statutes, chapters and executive orders in this claim because the Commission already made a determination on them in test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice.*

Recommendation

Staff recommends that the Commission adopt this analysis to partially approve the test claim for the activities in Penal Code section 13023 (Stats. 2004, ch. 700) listed above.

STAFF ANALYSIS

Co-Claimants

City of Newport Beach and County of Sacramento

Chronology

09/06/02	Claimant City of Newport Beach files test claim 02-TC-04
11/22/02	County of Sacramento files test claim 02-TC-11
03/27/08	Co-claimants file test claim amendment to test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice*
04/04/08	Commission staff notifies co-claimants that the proposed amendment is incomplete and that they have 30 days to file a complete amendment
06/25/08	Co-claimants re-file test claim amendment
06/25/08	Commission staff severs test claim amendment from test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice*
07/11/08	Commission staff notifies co-claimants that test claim amendment is complete and assigned to it the number 07-TC-10
08/15/08	Department of Finance submits comments on the test claim
09/5/08	Department of Justice submits comments on the test claim
05/07/09	Commission staff issues draft staff analysis
05/29/09	Co-claimants submit comments on the draft staff analysis
06/03/09	Department of Finance submits comments on the draft staff analysis

Background

This test claim alleges crime statistics reporting activities of local law enforcement agencies.

This test claim was originally filed as an amendment to, and severed from, test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice,* by the same co-claimants. Test claims 02-TC-04 and 02-TC-11 were decided by the Commission on June 26, 2008, determining that the following activities are reimbursable mandates:

- A local government entity responsible for the investigation and prosecution of a homicide case to provide the DOJ with demographic information about the victim and the person or persons charged with the crime, including the victim's and person's age, gender, race, and ethnic background (Pen. Code, §13014).
- Local law enforcement agencies to report, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual

orientation, or physical or mental disability, or gender or national origin (Pen. Code, §13023).

- For district attorneys to report annually on or before June 30, to the Attorney General, on profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under section 12025 (carrying a concealed firearm) or section 12031 of the Penal Code (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information. This is a reimbursable mandate from July 1, 2001 (the beginning of the reimbursement period for this test claim) until January 1, 2005 (Pen. Code, §§ 12025 subd. (h)(1) & (h)(3) & 12031 subd. (m)(1) & (m)(3)).
- For local law enforcement agencies to support all domestic-violence related calls for assistance with a written incident report (Pen. Code, § 13730, subd. (a), Stats. 1993, ch. 1230).

The Commission also found that neither Penal Code section 13012, nor the "Criminal Statistics Reporting Requirements" and "Requirements Spreadsheet" (March 2000), impose state-mandated requirements on local agencies or school districts. Penal Code section 13012 concerns only the DOJ's annual report to the Governor and did not require a local government activity.

Although it includes other statutes and executive orders, this amendment was filed because Penal Code sections 13020 and 13021 were not included in the earlier test claims. Co-claimants asserted that section 13020 (the duty on local law enforcement to report crime) was expanded to create the program in test claims 02-TC-04 and 02-TC-11 (see Statement of Decision, p. 11).

Uniform Crime Reporting: The Uniform Crime Reporting (UCR) Program is a city, county and state law enforcement program that provides a nationwide view of crime based on the submission of statistics by law enforcement agencies throughout the country. The crime data are submitted either to a state UCR Program or directly to the national UCR Program, administered by the Federal Bureau of Investigation (FBI). The International Association of Chiefs of Police (IACP) envisioned the need for statistics on crime in the 1920s. The IACP's Committee on Uniform Crime Records is a voluntary national data collection effort begun in 1930. Crime data are, for the most part, collected monthly by the UCR Program. The FBI provides report forms, tally sheets, and self-addressed envelopes to agencies that complete the forms and return them directly to the FBI.

In 1955, California enacted laws requiring the state's participation in the UCR Program. At the same time, it authorized and directed the California DOJ to collect, maintain and analyze criminal statistics beyond the scope of the UCR Program.

Penal Code section 13010 requires DOJ to collect from state and local entities, on forms developed by DOJ, data necessary for the "work of the department." (Department is used in the statutes to mean DOJ.) Penal Code section 13010 also provides that DOJ shall: (1) recommend the form and content of records to be maintained by the state and local entities; (2) instruct them in the installation, maintenance and use of such records; (3) process, tabulate, analyze and interpret the data collected; (4) supply data to the FBI and others engaged in the collection of national criminal statistics; (5) present to the Governor an annual report containing the criminal statistics of the preceding calendar year; and (6) present at such other times as the Attorney

General may approve reports on special aspects of criminal statistics (Pen. Code, § 13010, subds. (c) – (g)).

Since 1955, Penal Code section 13020 has imposed a duty on city marshals, chiefs of police, district attorneys, city attorneys, city prosecutors having criminal jurisdiction, probation officers and others, including "every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General" to collect and report statistical data.

Since 1955, cities and counties have had the obligation to provide DOJ with criminal statistics used in the UCR Program, as well as those needed for the annual report to the Governor and other reports on special aspects of criminal statistics.

Test Claim Statutes

Crime reporting: As enacted in 1955, Penal Code section 13020 imposes the following duty on local law enforcement "when requested by the Attorney General:"

> (a) To install and maintain records needed for the correct reporting of statistical data required by the bureau [FBI]; (b) To report statistical data to the bureau at such times and in such manner as the Attorney General prescribes; (c) To give to the Attorney General, or his accredited agent, access to the statistical data…

In 1972, subdivisions (a) and (b) were amended to make the Attorney General rather than the "bureau" the entity to whom local law enforcement reports.[1]

Reporting child pornography crimes: Section 13021 was added in 1967 (Stats. 1967, ch. 1157) as follows:

> Local law enforcement agencies shall report to the bureau such information as the Attorney General may by regulation require relative to misdemeanor violations of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 of this code.

Chapter 7.5 of Title 9 of Part 1 of the Penal Code is called "Obscene Matter" although the content of the statutes focus on child pornography.

Statutes 1972, chapter 1377, amended this statute to require the report to the Attorney General rather than the "bureau." This statute has not been amended since 1972.

Annual DOJ report to the Governor: Penal Code section 13012 requires DOJ's annual report to the Governor to contain specified data. It was amended in 1980 to require inclusion of "the number of citizens' complaints received by law enforcement agencies under Section 832.5…" (Stats. 1980, ch. 1340, eff. Sept. 30, 1980.)

Subdivision (c) of section 13012 was amended in 1995 to add the following underlined provision: "The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, <u>including those in the juvenile justice system,</u> in dealing

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[1] Statutes 1972, chapter 1377, amended subdivisions (a) and (b) as follows: "(a) To install and maintain records needed for the correct reporting of statistical data required by him [the Attorney General]. (b) To report statistical data to the department at such times and in such manner as the Attorney General prescribes." No change was made to subdivision (c).

with criminals or delinquents." It was amended again by Statutes 2001, chapter 486 to add the following subdivision (e):

> (e) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies, including those in the juvenile justice system, in dealing with minors who are the subject to a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that section 13012 (Stats. 1980, ch. 1340, Stats. 1995, ch. 803 & Stats. 2001, ch. 486), by itself, does not impose a state-mandated activity on a local government because it only specifies the contents of a DOJ report, and imposes no requirements on a local agency.

Homicide reports: Penal Code section 13014 requires DOJ to collect information on all homicide victims and persons charged with homicides, to adopt and distribute homicide reporting forms and to compile the reported homicide information and annually publish a report about it. Subdivision (b) states: "Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime." (Stats. 1992, ch. 1338.)

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that Penal Code section 13014 is a reimbursable mandate for a local government entity responsible for the investigation and prosecution of a homicide case to provide DOJ with demographic information about the victim and the person or persons charged with the crime, including the victim's and person's age, gender, race, and ethnic background.

The Legislature amended subdivision (a) of section 13014 in 2004 (Stats. 2004, ch. 405) to authorize DOJ to distribute reporting forms in writing or by electronic means.

Hate crime reports: Penal Code section 13023, as originally enacted in 1989, provided:

> Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability. (Stats. 1989, ch. 1172.)

Section 13023 also requires DOJ to file annual reports on the hate crime data. Statutes 1998, chapter 933 added the requirement to include 'gender' to the victim characteristics, and Statutes 2000, chapter 626 added 'national origin' to the victim characteristics.

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that Penal Code section 13023 is a reimbursable state-mandated program for local law enforcement agencies to report, in a manner

to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability, or gender or national origin.

The Legislature amended section 13023 in 2004 (Stats. 2004, ch. 700). This 2004 amendment, which was not pled or determined in test claims 02-TC-04 or 02-TC-11, slightly changed the definition of a hate crime and incorporated the definition by reference into section 13023, which affected the reporting requirement.

Concealed and loaded firearms reports: Penal Code section 12025 defines when a person is guilty of carrying a concealed firearm, defines the punishments for doing so, states a minimum sentence with exceptions, and defines lawful possession of the firearm. It was amended by Statutes 1999, chapter 571 to add a reporting provision in subdivision (h) as follows:

> (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.
> (2) The Attorney General shall submit annually a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).
> (3) This subdivision shall remain operative until January 1, 2005, and as of that date shall be repealed.

Similarly, section 12031 defines when a person is guilty of carrying a loaded firearm in a public place, and when a person is not guilty of doing so. It was amended by Statutes 1999, chapter 571 to add a reporting provision in subdivision (m) as follows:

> (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.
> (2) The Attorney General shall submit annually, a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).
> (3) This subdivision shall remain operative only until January 1, 2005.

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that it is a reimbursable mandate for district attorneys to report annually on or before June 30, to the Attorney General, on profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under section 12025 (carrying a concealed firearm) or section 12031 of the Penal Code (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information. This is a reimbursable mandate from July 1, 2001 until January 1, 2005, the statutory sunset date. (Pen. Code, §§ 12025 subd. (h)(1) & (h)(3) & 12031 subd. (m)(1) & (m)(3).)

Domestic violence reports: Penal Code section 13730 requires local law enforcement agencies to develop a system for recording all domestic violence-related calls for assistance. Enacted by Statutes 1984, chapter 1609, subdivision (a) requires each law enforcement agency to develop a

system for recording all domestic violence-related calls for assistance, including whether weapons are involved. Subdivision (b) requires the Attorney General to report annually to the Governor and Legislature on the total number of domestic violence-related calls received by California law enforcement agencies. Subdivision (c) requires law enforcement agencies to develop a domestic violence incident report form for the domestic violence calls, with specified content. It also requires written reports for domestic-violence related calls for assistance.

The Legislature amended subdivision (a) (Stats. 1993, ch. 1230) to state that "all domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident."

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that it is a reimbursable state-mandated program for local law enforcement agencies to support all domestic-violence related calls for assistance with a written incident report, beginning July 1, 2001 (Pen. Code, § 13730, subd. (a), Stats. 1993, ch. 1230).

Reports for crime victims age 60 or older: Senate Resolution No. 64 (Stats. 1982, ch. 147) states in relevant part:

> Resolved by the Senate of the State of California, the Assembly thereof concurring,
> That local law enforcement officials are requested to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older; and be it further Resolved,
> That the Department of Justice is requested to solicit and collect information from local law enforcement agencies concerning the ages and victims of crime and to incorporate that information in its crime statistic reporting system...

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that Senate Resolution No. 64 (Stats. 1982, ch. 147) is not a state mandate within the meaning of article XIII B, section 6, of the California Constitution because it "requests" but does not mandate that the victim information be provided to DOJ, and because legislative resolutions do not have the force of law.

Criminal Justice Statistics Center documents: Also included in the claim is the "Criminal Justice Reporting Requirements" (March 2000) and the "Criminal Statistics Reporting Requirements Spreadsheet" both promulgated by the Department of Justice, Criminal Justice Statistics Center. The introduction to the Reporting Requirements (former) document states:

> This document provides general guidelines to law enforcement agencies, District Attorneys, Public Defenders, and Probation Departments regarding their reporting requirements to the Department of Justice's Criminal Justice Statistics Center (CJSC). For each reporting requirement there is a brief description of what data is collected (introduction), which agencies are required to report the data (who), the code sections(s) that require reporting (why), the due date of the report (when), and the form or alternative method required to be used to report the data (how).

The Table of Contents of this document has sections on arrests, crimes and clearances, arson offenses, homicides, hate crimes, law enforcement officers killed or assaulted, domestic violence related calls for assistance, violent crimes committed against senior citizens, death in custody, adult probation, juvenile court and probation statistical system, concealable weapons statistical system, hate crime prosecution survey, law enforcement and criminal justice personnel survey, and citizens' complaints against peace officers survey.

The spreadsheet has rows for each of the categories in the Table of Contents above, and columns indicating the reporting agency, reporting frequency, statutory authority, reporting form, and whether electronic reporting is available for each crime or category.

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that these CJSC documents are not executive orders within the meaning of Government Code section 17516, and that they do not impose state-mandated activities on local agencies to report citizen complaints against peace officers and juvenile justice data to the DOJ.

Co-Claimants' Position

Co-claimants City of Newport Beach and County of Sacramento filed this test claim to seek reimbursement based on article XIII B, section 6 of the California Constitution for criminal statistics reporting duties. The test claims do not contain specific activities beyond quoting the language of the test claim statutes. The co-claimants estimate that the costs of complying with the test claim statutes will substantially exceed $1000.00 per year.

On May 29, 2009, co-claimants submitted comments supporting the draft staff analysis.[2]

State Agency Positions

The Department of Finance, in comments submitted August 15, 2008, asserts that the test claim should not be reimbursable.[3] According to Finance:

> Sections 13020 and 13021 of the Penal Code were enacted in 1955 and 1967 respectively. Further, the amendments to Sections 13020 and 13021 (Chapters 233 and 860, Statutes of 1979 and Chapter 872, Statutes of 1996) made only technical and clarifying changes which do not mandate a new program or higher level of service within the meaning of Section 6 of Article XIII B ....

Finance also states that the additional statutes pled (beyond those in the original test claims 02-TC-04 and 02-TC-11) "make only technical and clarifying changes to the items already approved by the Commission" and concludes that the Commission should deny the test claim amendment.

Finance submitted a letter concurring with the draft staff analysis on June 3, 2009.[4]

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[2] Exhibit F.

[3] Exhibit B.

[4] Exhibit G

The Department of Justice, in comments submitted September 5, 2008, declines to comment on whether the specified costs incurred represent state mandated reimbursable costs.[5] DOJ did, however, point out the higher costs claimed by City of Newport Beach than by the County of Sacramento, even though the county has a higher population and more crimes.

Discussion

The courts have found that article XIII B, section 6 of the California Constitution[6] recognizes the state constitutional restrictions on the powers of local government to tax and spend.[7] "Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."[8] A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.[9]

In addition, the required activity or task must be new, constituting a "new program," or it must create a "higher level of service" over the previously required level of service.[10]

The courts have defined a "program" subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.[11] To determine if the

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[5] Exhibit C.

[6] Article XIII B, section 6, subdivision (a), (as amended in Nov. 2004) provides:

> (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

[7] *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

[8] *County of San Diego v. State of California (County of San Diego)*(1997) 15 Cal.4th 68, 81.

[9] *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

[10] *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.)*; *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

[11] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar, supra,* 44 Cal.3d 830, 835.)

program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim legislation.[12] A "higher level of service" occurs when the new "requirements were intended to provide an enhanced service to the public."[13]

Finally, the newly required activity or increased level of service must impose costs mandated by the state.[14]

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.[15] In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[16]

Because of the overlap in statutes, chapters and executive orders in this test claim and test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice*, the first issue is the Commission's jurisdiction.

I. Over which statutes or executive orders does the Commission have jurisdiction?

In this test claim, co-claimants pled the following statutes and chapters:

> Penal Code Sections 12025, 12031, 13012, 13014, 13020, 13021, 13023 and 13730; Statutes 1955, chapter 1128, Statutes 1965, chapter 238, Statutes 1965, chapter 1916, Statutes 1967, chapter 1157, Statutes 1971, chapter 1203, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1980, chapter 1340, Statutes 1982, Resolution Chapter 147 (SCR 64); Statutes 1984, chapter 1609, Statutes 1989, chapter 1172, Statutes 1992, chapter 1338, Statutes 1993, chapter 1230, Statutes 1995, chapters 803 and 965, Statutes 1996, chapter 872, Statutes 1998, chapter 933, Statutes 1999, chapter 571, Statutes 2000, chapter 626, Statutes 2001, chapters 468 and 483, Statutes 2004, chapters 405, 700, Statutes 1982, Resolution Chapter 147 (SCR 64), and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements and Requirements Spreadsheet, March 2000.

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[12] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 878; *Lucia Mar, supra,* 44 Cal.3d 830, 835.

[13] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 878.

[14] *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

[15] *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

[16] *County of Sonoma, supra,* 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

Statutes 1971, chapter 1203 amended only section 13010, which recites the duties of the Bureau of Criminal Statistics at DOJ. Penal Code section 13010, however, was not pled in this claim. Therefore, staff finds that the Commission does not have jurisdiction over Statutes 1971, chapter 1203.

As to the remaining statutes, an administrative agency does not have jurisdiction to rehear a decision that has become final.[17] On June 26, 2008, the Commission made a determination on the following statutes and chapters in test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice*, which became final upon mailing to the parties:[18]

> Penal Code Sections 12025, 12031, 13012, 13014, 13023 and 13730; Statutes 1980, chapter 1340, Statutes 1982, Resolution Chapter 147 (SCR 64); Statutes 1984, chapter 1609, Statutes 1989, chapter 1172, Statutes 1992, chapter 1338, Statutes 1993, chapter 1230, Statutes 1995, chapters 803 and 965, Statutes 1998, chapter 933, Statutes 1999, chapter 571, Statutes 2000, chapter 626, Statutes 2001, chapters 468 and 483, and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements and Requirements Spreadsheet, March 2000.

There is substantial overlap between what was claimed and what the Commission decided at the June 26, 2008 hearing. Because the Commission's prior decision on test claims 02-TC-04 and 02-TC-11 has become final, the Commission has jurisdiction over only those statutes on which no determination was made in the Statement of Decision for those test claims, as follows:

> Penal Code sections 13020 and 13021; Statutes 1955, chapter 1128, Statutes 1965, chapter 238, Statutes 1965, chapter 1916, Statutes 1967, chapter 1157, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1996, chapter 872, Statutes 2004, chapter 405 (amending § 13014), Statutes 2004, chapter 700 (amending § 13023).

These statutes are discussed below.

II. Is reimbursement required for Penal Code sections 13020 and 13021 if the required activities were enacted before 1975?

Article XIII B, section 6 of the California Constitution does not require reimbursement for statutes or executive orders that were enacted before 1975. Therefore, if the law imposed a requirement on local government before 1975, the Legislature may, but need not, reimburse local agencies for those activities.

Penal Code section 13020 imposes the following duty on local law enforcement "when requested by the Attorney General:"

---

[17] *Heap v. City of Los Angeles* (1936) 6 Cal.2d 405, 407. *Save Oxnard Shores v. California Coastal Commission* (1986) 179 Cal.App.3d 140, 143.

[18] California Code of Regulations, title 2, section 1188.2. The only exception would be for a reconsideration within 30 days of the decision (see Gov. Code, § 17559 & Cal. Code Regs., tit. 2, § 1188.4), but no reconsideration request was filed.

> (a) To install and maintain records needed for the correct reporting of statistical data required by him or her; (b) To report statistical data to the department [of Justice] at such times and in such manner as the Attorney General prescribes; (c) To give to the Attorney General, or his accredited agent, access to the statistical data for the purpose of carrying out this title.

Staff finds that this same activity was required before 1975. Statutes 1973, chapter 1212 enacted this same requirement "when requested by the Attorney General":

> (a) To install and maintain records needed for the correct reporting of statistical data required by the him; (b) To report statistical data to the Department of Justice at such times and in such manner as the Attorney General prescribes; (c) To give to the Attorney General, or his accredited agent, access to the statistical data for the purpose of carrying out the purposes of this title.

Because local law enforcement was subject to the same reporting requirement before 1975, and based on the absence of any right to reimbursement in article XIII B, section 6, for statutes enacted before 1975, staff finds that there is no state reimbursement required for this reporting in Penal Code section 13020 (Stats. 1955, ch. 1128, Stats. 1965, ch. 238, Statutes 1965, chapter 1916, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1996, chapter 872).

Section 13021 of the Penal Code also requires local law enforcement reporting:

> Local law enforcement agencies shall report to the Department of Justice such information as the Attorney General may by regulation require relative to misdemeanor violations of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 of this code [child pornography].

Section 13021 has not been amended since 1972 (Stats. 1972, ch. 1377). Therefore, for the same reason as section 13020 above, staff finds that state reimbursement is not required for the activities in Penal Code section 13021 (Stats. 1967, ch. 1157, Stats. 1972, ch. 1377).

Sections 13023 (Stats. 2004, ch. 700, hate crime reports) and 13014 (Stats. 2004, ch. 405, homicide reports) are discussed below.

III. Do Penal Code sections 13014 (Stats. 2004, ch. 405) and 13023 (Stats. 2004, ch. 700) mandate a new program or higher level of service?

As stated above, the Commission determined that section 13014, as added in Statutes 1992, chapter 1338, is a reimbursable mandate. This section was amended in 2004 as follows:

> (a) The Department of Justice shall perform the following duties concerning the investigation and prosecution of homicide cases: (1) Collection information, as specified, in subdivision (b), on all persons who are the victims of, and all persons who are charged with, homicide. (2) Adopt and distribute <u>as a written form or by electronic means</u> to all state and governmental entities that are responsible for the investigation and prosecution of homicide cases forms <u>that</u> will include information to be provided to the department pursuant to subdivision (b).

No other changes were made by Statues 2004, chapter 405. The local government reporting requirement is in subdivision (b). This amendment is not a mandated activity on a local agency.

It authorizes the DOJ to distribute forms in writing or electronically, but does not require an activity of a local agency. Therefore, staff finds that section 13014, as amended by Statutes 2004, chapter 700, is not a state-mandated new program or higher level of service.

Although the Commission determined that section 13023, as amended by Statutes 2000, chapter 626, is a reimbursable mandate, the section was amended in 2004 as follows:

> (a) Subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to ~~any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability, or gender or national origin~~ hate crimes. This information may include any general orders or formal policies on hate crimes and the hate crime pamphlet required pursuant to Section 422.92.
>
> (b) On or before July 1~~, 1992, and every July 1, thereafter,~~ of each year, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.
>
> (c) For purposes of this section, "hate crime" has the same meaning as in Section 422.55.

Section 422.55 of the Penal Code, now incorporated into section 13023, was also added by Statutes 2004, chapter 700, as follows:

> For purposes of this title, and for purposes of all other state law unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:
>
> (a) "Hate crime" means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:
>
> (1) Disability.
> (2) Gender.
> (3) Nationality.
> (4) Race or ethnicity.
> (5) Religion.
> (6) Sexual orientation.
> (7) Association with a person or group with one or more of these actual or perceived characteristics.
>
> (b) "Hate crime" includes, but is not limited to, a violation of Section 422.6.

This amendment, incorporating the new definition of hate crime in section 422.55, expands the definition somewhat. For example, instead of the crime being motivated by the victim's characteristics, the new definition allows for actual or "perceived characteristics" of the victim. The amendment also adds a victim characteristic: "Association with a person or group with one or more of these actual or perceived characteristics."

As determined in the Statement of Decision for *Crime Statistics Reports for the Department of Justice* (02-TC-04 and 02-TC-11) the plain language of this statute requires the Attorney General to "direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information ..." Therefore, staff finds that section 13023 (Stats. 2004, ch. 700) imposes a state-mandated new program or higher level of service on local law enforcement agencies beginning January 1, 2004, to report the following in a manner to be prescribed by the Attorney General:

- Any information that may be required relative to hate crimes, as defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of one or more of the following *perceived* characteristics of the victim: (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.
- Any information that may be required relative to hate crimes, defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of *association with a person or group with one or more of the following actual or perceived characteristics:* (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.

Staff also finds that section 13023 constitutes a program within the meaning of article XIII B, section 6 because it carries out the governmental function of providing a service to the public[19] by collecting hate crime information for DOJ to report criminal statistics, and because reporting the data is an activity that is unique to local government.

Subdivision (a) of section 13023, as amended by Statutes 2004, chapter 700, also states that the reported "information may include any general orders or formal policies on hate crimes and the hate crime pamphlet required pursuant to Section 422.92."[20] There is no evidence or pleading in the record, however, indicating that DOJ has required this information from local law enforcement, such as a letter to law enforcement agencies from DOJ requiring this information to be reported. Since the statute merely authorizes DOJ to request the information but does not require an activity of a local agency, staff finds that this amendment to subdivision (a) is not a state-mandated new program or higher level of service.

IV. Does Penal Code section 13023 (Stats. 2004, ch. 700) impose costs mandated by the state within the meaning of Government Code sections 17514 and 17556?

The final issue is whether Penal Code section 13023 (Stats. 2004, ch. 700) imposes costs mandated by the state,[21] and whether any statutory exceptions listed in Government Code

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[19] *County of Los Angeles, supra,* 43 Cal.3d 46, 56.

[20] Penal Code section 422.92 states: (a) Every state and local law enforcement agency in this state shall make available a brochure on hate crimes to victims of these crimes and the public. (b) The Department of Fair Employment and Housing shall provide existing brochures, making revisions as needed, to local law enforcement agencies upon request for reproduction and distribution to victims of hate crimes and other interested parties. In carrying out these responsibilities, the department shall consult the Fair Employment and Housing Commission, the Department of Justice, and the Victim Compensation and Government Claims Board.

[21] *Lucia Mar, supra,* 44 Cal.3d 830, 835; Government Code section 17514.

section 17556 apply to the test claim. Government Code section 17514 defines "cost mandated by the state" as follows:

> [A]ny increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

Government Code section 17564 requires reimbursement claims to exceed $1000 to be eligible for reimbursement.

The co-claimants submitted declarations in support of their test claim.[22] The City of Newport Beach (p. 11) estimated the cost of filing to comply with Penal Code section 13023 at $10,570 per month. The County of Sacramento (p. 10) estimated the cost of filing to comply with this statute at $244 per year. Therefore, co-claimants have met the $1000 threshold in Government Code section 17564.

The plain language of Penal Code section 13023 requires the Attorney General to "direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information ..."

However, the requirement is contingent on funding, as it reads "subject to the availability of adequate funding, the Attorney General shall direct..." The funding in the statute is allocated to the Attorney General, not local entities. In its comments on test claims 02-TC-04 and 02-TC-11, the Attorney General's Office stated that "[a]lthough the hate crime legislation passed in 1989, because of a lack of funding, the DOJ did not begin collecting data until 1994." (Statement of Decision, 02-TC-04 & 02-TC-11, *Crime Statistics Reports for the Department of Justice*, p. 15.) This indicates that the funding was allocated to the Attorney General's office to collect the data, not on the local agencies to report it.

And staff finds no exceptions to reimbursement in Government Code section 17556 apply to this test claim.

Therefore, staff finds that Penal Code section 13023 (Stats. 2004, ch. 700) imposes costs mandated by the state on local law enforcement agencies within the meaning of Government Code section 17514.

CONCLUSION

Based on the foregoing analysis, staff finds that Penal Code section 13023 (Stats. 2004, ch. 700) imposes a reimbursable state-mandated program, within the meaning of article XIII B, section 6 of the California Constitution for the following activities, on local law enforcement agencies beginning January 1, 2004, to report the following in a manner to be prescribed by the Attorney General:

- Any information that may be required relative to hate crimes, as defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of one or more of

---

[22] Exhibit A.

the following *perceived* characteristics of the victim: (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.

- Any information that may be required relative to hate crimes, defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of *association with a person or group with one or more of the following actual or perceived characteristics:* (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.

Staff further finds that Penal Code sections 13020 and 13021 (Statutes 1955, chapter 1128, Statutes 1965, chapter 238, Statutes 1965, chapter 1916, Statutes 1967, chapter 1157, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1996, chapter 872) are not reimbursable state mandates within the meaning of article XIII B, section 6 of the California constitution because they existed before 1975, and impose no new activities on local agencies.

As to Statutes 1971, chapter 1203, staff finds that, because it amended only Penal Code section 13010, which is not part of this test claim, the Commission does not have jurisdiction over it.

Staff finds that Statutes 2004, chapters 405 (amending Pen. Code, § 13014, homicide reports) is not a state mandate because it does not require a local agency activity.

Staff also finds that the Commission does not have jurisdiction over the remaining statutes, chapters and executive orders in this claim because the Commission already made a determination on them in test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice.*

Recommendation

Staff recommends that the Commission adopt this analysis to partially approve the test claim for the activities in Penal Code section 13023 (Stats. 2004, ch. 700) listed above.

PAGES 18-100 LEFT BLANK INTENTIONALLY

Exhibit A

For CSM

Filing Date: **RECEIVED**

JUN 2 5 2008

COMMISSION ON STATE MANDATES

Test Claim #:

~~Crime Statistic Reports for the Department of~~ Justice - Amended

Sacramento County/City of Newport Beach
Name of Local Agency or School District

Nancy Gust/Glen Everroad
Claimant Contact

Admin Services Officer/Revenue Manager
Title

711 G St Rm 405/3300 Newport Blvd
Street Address

Sacramento/Newport Beach CA 95814/92658
City, State, Zip

916-874-6032/949-644-3141
Telephone Number

916-874-5263/949-723-3544
Fax Number

ngust@sacsheriff.com/geverroad@city-newportbeach.ca.gov
E-Mail Address

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Allan Burdick
Claimant Representative Name

Executive Director
Title

MAXIMUS
Organization

4320 Auburn Blvd., Suite 2000
Street Address

Sacramento, CA 95841
City, State, Zip

916-485-8102 x 113
Telephone Number

916-485-0111
Fax Number

allanburdick@maximus.com
E-Mail Address

Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.

Penal Code sections 12025, 12031, 13012, 13014, 13020, 13021, 13023, and 13730.

Chapter 1128, Statutes of 1955; Chapter 238, Statutes of 1965; Chapter 1916, Statutes of 1965; Chapter 1157, Statutes of 1967; Chapter 1203, Statutes of 1971, Chapter 1377, Statutes of 1972; Chapter 142, Statutes of 1973; Chapter 1212, Statutes of 1973; Chapter 255, Statutes of 1979; Chapter 860, Statutes of 1979; Chapter 1340, Statutes of 1980; Chapter 1609, Statutes of 1984; Chapter 1172, Statutes of 1989; Chapter 1338, Statutes of 1992 [SB 1184]; Chapter 1230, Statutes of 1993 [AB 2250]; Chapter 965, Statutes of 1995 [SB 132]; Chapter 803, Statutes of 1995 [AB 488]; Chapter 872, Statutes of 1996 [AB 3472]; Chapter 933, Statutes of 1998 [AB 1999]; Chapter 571, Statutes of 1999 [AB 491]; Chapter 626, Statutes of 2000 [AB 715]; Chapter 468, Statutes of 2001 [SB 314]; Chapter 483, Statutes of 2001 [AB 469]; Chapter 405, Statutes of 2004 [SB 1796]; Chapter 700, Statutes of 2004 [SB 1234]; Senate Resolution 64, Chapter 147, 1982; California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements, March 2000; and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements Spreadsheet, March 2000

☐ *Copies of all statutes and executive orders cited are attached.*

Sections 5, 6, and 7 are attached as follows:

5. Written Narrative: pages 1 to 9.
6. Declarations: pages 10 to 12.
7. Documentation: pages 13 to 446.

(Revised 1/2005)

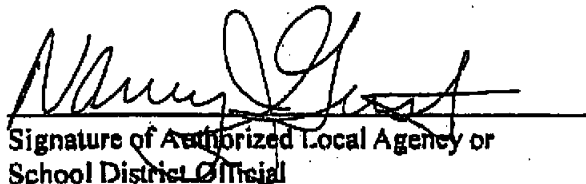
8. CLAIM CERTIFICATION

*Read, sign, and date this section and insert at the end of the test claim submission.**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

NANCY J. GUST
Print or Type Name of Authorized Local Agency or School District Official

ADMINISTRATIVE SERVICES OFFICER III
Print or Type Title



Signature of Authorized Local Agency or School District Official

06/23/09
Date

** If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

CLAIM CERTIFICATION

Read, sign, and date this section and insert at the end of the test claim submission. *

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

GLEN EVERROAD
Print or Type Name of Authorized Local Agency or School District Official

REVENUE MANAGER
Print or Type Title

Signature of Authorized Local Agency or School District Official

24 JUNE '08
Date

** If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below:*

SECTION 5: WRITTEN NARRATIVE

INTRODUCTION

Overview

Beginning in 1955, the Legislature, through enactments in the Penal Code, specifically §13010, set forth requirements that the Department of Justice (DOJ) must prepare statistical reports for review. Pursuant to Penal Code §§13020 and 13021[1], local law enforcement agencies were required to comply with the DOJ and begin collecting statistical crime data. Reports were then generated and submitted to the DOJ either monthly or annually depending on the nature of the information the report contained. At that time, only a few reports were required. In the late 1970's and through to present time, these reports have increased in number and complexity. Now, at least 10 types of reports are due monthly and three more due annually reporting on various issues such as homicide, domestic violence, citizen complaints, and hate crimes.

Section 13012 of the Penal Code, added in 1955, sets forth the required contents of an annual report by the DOJ. The DOJ, in turn requires all local agencies with police powers including sheriffs, police, District Attorneys and probation officers, to gather and to report general statistical information on all adult offenders annually. Chapter 1340, Statutes of 1980, added the requirement that local agencies report the number of citizens' complaints, the number of complaints that alleged criminal conduct, and the number of complaints within each category of crime. Chapter 803, Statutes of 1995, expanded the reporting to include all juvenile offenders. Finally Chapter 468, Statutes of 2001, added that the report on juveniles must include any administrative action taken by law enforcement or correctional agencies dealing with minors in the juvenile justice system where the minor had a criminal case either transferred to or initiated in adult criminal court. The DOJ requires report number CJSC 724 be filed annually.

Penal Code §13012 currently reads:

> The annual report of the department provided for in Section 13010 shall contain statistics showing all of the following:
> (a) The amount and the type of offenses known to public authorities.
> (b) The personal and social characteristics of criminals and delinquents.
> (c) The administrative actions taken by law enforcement,

[1] Although these sections create the mandate, they have not been amended since 1996. They are included to set the stage for the legislation that followed directing local agencies on the types of reports to be filed.

> judicial, penal and correctional agencies or institutions, including those in the juvenile justice system, in dealing with criminals or delinquents.
> (d) The administrative actions taken by law enforcement, prosecutorial, judicial, penal and correctional agencies, , including those in the juvenile justice system, in dealing with minors who are the subject of a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.
> (e) The number of citizens' complaints received by law enforcement agencies under Section 832.5. These statistics shall indicate the total number of these complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.
> It shall be the duty of the department to give adequate interpretation of the statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution, and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall also include statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

Section 13014 of the Penal Code, added by Chapter 1338, Statutes of 1992, requires all local entities responsible for the investigation or prosecution of homicides submit a report to the DOJ containing victim and offender demographic information. The DOJ requires report number BCS 15 be submitted monthly.

Penal Code §13014 reads, in pertinent part:

> (b) Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime including age, gender, race and ethnic background.

Section 13023 of the Penal Code, added by Chapter 1172, Statutes of 1989, requires local law enforcement agencies to report criminal acts or attempted criminal acts commonly referred to as hate crimes. The DOJ requires that sheriffs and police file its Agency Crime Report monthly and District attorneys file report number CJSC 5 on hate crime

prosecution annually. Chapter 933, Statutes of 1998, expanded the parameters of a hate crime to include gender. Chapter 626, Statutes of 2001, further expanded the parameters to include national origin. Finally, Chapter 700, Statutes of 2004, tying the definition of hate crime to Penal Code § 422.55[2]

Penal Code §13023 currently reads:

> (a) Subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to hate crimes. This information may include any general orders or formal policies on hate crimes and the hate crime pamphlet required pursuant to Section 422.92.
> (b) On or before July 1 of each year, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.
> (c) For purposes of this section, "hate crime" has the same meaning as in Section 422.55.

Section 12025 of the Penal Code, added in 1953, makes carrying a concealed weapon a crime. This statute has been amended several times but most recently, Chapter 571, statutes of 1999, added a reporting requirement for local District Attorneys for an annual report. The DOJ requires that report number CJSC 4 be submitted annually.

Penal Code §12025 reads, in pertinent part:

> (h)(1) The district attorney of each county shall submit

---

[2] Which states: For purposes of this title, and for purposes of all other state law unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:
(a) "Hate crime" means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:
(1) Disability.
(2) Gender.
(3) Nationality.
(4) Race or ethnicity.
(5) Religion.
(6) Sexual orientation.
(7) Association with a person or group with one or more of these actual or perceived characteristics.
(b) "Hate crime" includes, but is not limited to, a violation of Section 422.6.

> annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offence charged in the same complaint, indictment, or information.

Section 12031 of the Penal Code, added in 1967, makes carrying a loaded firearm a crime. This statute has been amended nearly every year but most recently, Chapter 571, statutes of 1999, added a reporting requirement for local District Attorneys for an annual report. The DOJ requires that report number CJSC 4 be submitted annually.

Penal Code §12031 reads, in pertinent part:

> (m)(1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offence charged in the same complaint, indictment, or information.

Section 13730 of the Penal Code, added by Chapter 1609, Statutes of 1984, requires that local law enforcement develop a system for recording all domestic violence-related calls. Chapter 1230, Statutes of 1993, amended the statute to require a written incident report. Chapter 965, Statutes of 1995, expanded the information be recorded to include whether the abuser was under the influence or if law enforcement had had prior calls to that same address with the same parties. Chapter 483, Statutes of 2001, further required a recordation of whether the officer at the scene had to inquire regarding the presence of firearms or other deadly weapon. The compiled information is required to be submitted in report number CJSC 715 to the DOJ monthly.

Penal Code §13730 currently reads:

> (a) Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported by a written incident report, as described in subdivision (c), identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be complied by each law enforcement agency and submitted to the Attorney General.
> (b) The Attorney General shall report annually to the Governor, the Legislature, and the public the total number

> of domestic violence-related calls received by California law enforcement agencies, the number of cases involving weapons, and a breakdown of call received by agency, city, and county.
> (c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident. The report shall include at least all of the following:
> (1) A notation of whether the officer or officers who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance.
> (2) A notation of whether the officer or officers who responded to the domestic violence call determined if any law enforcement agency had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.
> (3) A notation of whether the officer or officers who responded to the domestic violence call found it necessary, for the protection of the peace officer or other person present, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon was present at the location, and, if there is an inquiry, whether the inquiry disclosed the presence of a firearm or other deadly weapon. Any firearm or other deadly weapon discovered by an officer at the scene of a domestic violence incident shall be subject to confiscation pursuant to Section 12028.5.

Senate Resolution 64, Chapter 147, Statues of 1982, requests local law enforcement to modify data gathering procedures to collect information on the number of victims of crime who are 60 years of age or older. The DOJ requires that reports concerning violent crime against senior citizens are submitted monthly report number BCS 727.

Although some of the legislation places the duty to report to the Legislature squarely on the shoulders of the State Department of Justice, the DOJ is quick to pass the brunt of this effort onto local agencies. The net effect of this legislation is to require local law enforcement to act as statisticians and data collectors for the state Department of Justice. Thus, the total costs of these claims are reimbursable.

Application of Mandate Law

The mandate created by these statutes clearly meets both tests that the Supreme Court in the *County of Los Angeles* v. *State of California* (1987) created for determining what

constitutes a reimbursable state mandated local program. Those two tests, which the Commission on State Mandates relies upon to determine if a reimbursable mandate exists, are the "unique to government" and the "carry out a state policy" tests. Their application to this test claim is discussed below.

Mandate Is Unique to Local Government. Only local government employs law enforcement. Thus, this requirement is unique to government.

Mandate Carries Out a State Policy. From the legislation, it is clear that the Legislature wishes to avail itself of a collection of crime statistics. These statistics are not only for the use of the Legislature but also for use by state agencies for reports and implementation of policy regarding the prevention of crime and delinquency.

Finally, there are seven disclaimers specified in Government Code section 17556 which could serve to bar recovery of "costs mandated by the State", as defined in that section. Test claimant asserts that none of the seven disclaimers apply to this test claim:

1. The claim is submitted by a local agency or school district which requests legislative authority for that local agency or school district to implement the program specified in the statutes, and that statute imposes costs upon the local agency or school district requesting the legislative authority.

2. The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts.

3. The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

4. The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service.

5. The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

6. The statute or executive order imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in a ballot measure

approved by the voters in a statewide or local election regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.

7. The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

None of the above disclaimers have any application to the test claim herein stated by the County of Sacramento.

A. MANDATE SUMMARY

As explained more specifically above, the DOJ reporting program significantly expanded the reports required to be filed by local law enforcement.

B. MODIFIED ACTIVITIES

Prior to 1975, certain types of reports were required to be filed with the DOJ. These reports included information on arrests, arson, crimes and clearances, law enforcement personnel killed or assaulted, deaths of individuals while in custody, probation, and law enforcement and criminal justice personnel surveys.

The passage of the aforementioned Chapters mandated reports in other areas and expanded upon existing reports. These Chapters created an expanded list of reporting requirements, as stated in more detail above, including, but not limited to, information on domestic violence, homicide, hate crimes, concealed weapons, loaded firearms, violent crimes against senior citizens and citizens' complaints.

C. ACTUAL COSTS

Sacramento County reports annual costs of two thousand three hundred seventy dollars ($2370.00) per year.[3] City of Newport Beach reports annual costs of one hundred forty-two thousand three hundred and twenty four dollars ($142,324) per year.[4]

These costs are all reimbursable costs as such costs are "costs mandated by the State" under Article XIII B, section 6 of the California Constitution, and Government Code §17500 *et seq.* Section 17514 of the Government Code defines "costs mandated by the state", and specifies the following three requirements:

1. There are "increased costs which a local agency is required to incur after July 1, 1980."

[3] See Declaration of Nancy J. Gust.
[4] See Declaration of Glen Everroad.

2. The costs are incurred "as a result of any statute enacted on or after January 1, 1975 or any executive order implementing any statute enacted on or after January 1, 1975."

3. The costs are the result of "a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIIIB of the California Constitution."

All three of the above requirements for finding costs mandated by the State are met as described previously herein.

D. COST ESTIMATES

Due to the fact that this is an on-going program, the actual costs stated above, are an accurate indication of future annual costs. Such estimates, however, will be impacted by the number of crimes committed within a jurisdiction and may alter significantly due to any change in or upgrade of reporting systems or alteration in internal reporting protocols.

E. STATEWIDE COST ESTIMATES

Projecting the above stated cost figures across all possible claimants, Test Claimants estimate the costs statewide to be approximately 41 million dollars per year. This amount does not account for factors that may cause a change in costs, including but limited to, changes in data systems, crimes committed, internal reporting protocols or the inability for small jurisdictions to meet the minimum filing amount.[5]

Test Claimant believes that this program, when found to be a reimbursable state mandate is a good candidate for a per-capita or other such reasonable reimbursement methodology[6] and requests same to be considered as part of the adoption of parameters and guidelines.

F. FUNDING SOURCES

Test claimants are unaware of any other funding sources for these new activities.

G. PRIOR MANDATE DETERMINATIONS

Test claimants note that the original DOJ Reports consolidated test claim, 02-TC-04 and 20-TC-11, is currently on calendar to be heard on June 26, 2008. Other than that, Test

[5] See declaration of Juliana F Gmur.
[6] Pursuant to Government Code section 17557.

Claimants are unaware of any prior mandate determinations that bear upon the issues presented within.

CONCLUSION

As stated above, the DOJ reporting requirements imposed a new state mandated program and cost on the County of Sacramento and City of Newport Beach by requiring additional reports be submitted generally on an annual or monthly basis to the DOJ. To create such reports, local law enforcement is placed in the position of having to compile various data and complete a laundry list of reports, each with a specific timeline for submission. The mandated program meets all of the criteria and tests for the Commission on State Mandates to find a reimbursable state mandated program. None of the so-called disclaimers or other statutory or constitutional provisions that would relieve the State from its constitutional obligation to provide reimbursement has any application to this claim.

Declaration of ➡➡ NANCY J. GUST
In support of Amended Test Claim

I, Nancy J. Gust state as follows:

1. I am the SB 90 Coordinator for the County of Sacramento Sheriff's Department. I have personal knowledge of the facts stated herein and if called upon to testify, I could do so competently.

2. Sacramento County Sheriff estimates costs of filing CJSC 724 (P.C. 13012) at $638 per year.

3. Sacramento County Sheriff estimates costs of filing BCS 15 (P.C. 13014) at $244 per year.

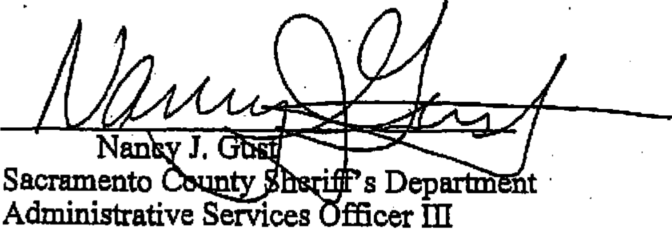
4. Sacramento County Sheriff estimates costs of filing CJSC 5 (P.C. 13023) at $122 per year.

5. Sacramento County Sheriff estimates costs of filing CJSC 715 (P.C. 13730) at $244 per year.

6. Sacramento County Sheriff estimates costs of filing BCS 727 (SR 64) at $122 per year.

7. Sacramento County District Attorney estimates costs of filing CJSC 4 and 5 (P.C. 12025, 12031 & 13023) at $1,000 per year.

I declare under penalty of perjury that the foregoing is true and correct as based upon my personal knowledge, information or belief, and that this declaration is executed this 24th day of June, 2008, at Sacramento, California.



Nancy J. Gust
Sacramento County Sheriff's Department
Administrative Services Officer III

Declaration of Glen Everroad
In support of Amended Test Claim

I, Glen Everroad, state as follows:

1. I am the Revenue Manager of the City of Newport Beach. I have personal knowledge of the facts stated herein and if called upon to testify, I could do so competently.

2. Newport Beach Police estimates costs of filing CJSC 724 (P.C. 13012) at $128,615 per year.

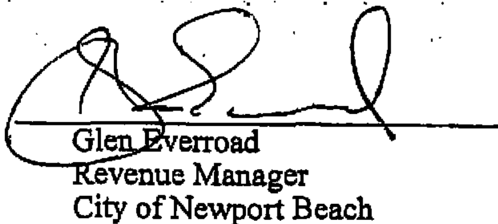
3. Newport Beach Police estimates costs of filing BCS 15 (P.C. 13014) at $10,570 per month.

4. Newport Beach Police estimates costs of filing CJSC 5 (P.C. 13023) at $10,529 per month.

5. Newport Beach Police estimates costs of filing CJSC 715 (P.C. 13730) at $10,546 per month.

6. Newport Beach Police estimates costs of filing BCS 727 (SR 64) at $14,011 per month.

I declare under penalty of perjury that the foregoing is true and correct as based upon my personal knowledge, information or belief, and that this declaration is executed this 24 day of June, 2008, at Newport Beach, California.



Glen Everroad
Revenue Manager
City of Newport Beach

011

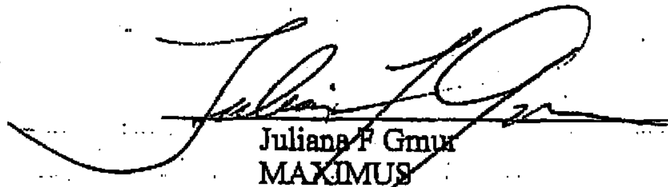
Declaration of Juliana F Gmur
In support of Amended Test Claim

I, Juliana F Gmur, state as follows:

1. I am an attorney and have been appearing before the Commission on State Mandates for over six years. I have personal knowledge of the facts stated herein and if called upon to testify, I could do so competently.

2. To create a statewide cost estimate, I extrapolated the cost figure provided by Sacramento County over the 58 counties and the cost figure of the City of Newport Beach over the approximately 290 cities with police departments. The result is approximately forty-one million four hundred eleven thousand four hundred and twenty dollars ($41,411,420) per year statewide.

I declare under penalty of perjury that the foregoing is true and correct as based upon my personal knowledge, information or belief, and that this declaration is executed this 23rd day of June, 2008, at Sacramento, California.



Juliana F Gmur
MAXIMUS

who handle manufacturing milk shall be the same as the proportions in which market milk and manufacturing milk are produced in this State as shown by the then most recently available records of the department; but this requirement shall not operate to remove from office any member of the board. The remaining three (3) members of the board shall be producer-handlers who produce a major portion of the milk used in the dairy products handled by them. Officials or members, otherwise qualified, of corporations, associations, and other business units, which are actually engaged in business as producers, producer-representatives, handlers, or producer-handlers of dairy products, shall be eligible to be members of the board.

Producer-representatives may be nominated in the same manner as provided in Section 744.1, except that to be eligible for appointment, the producer-representative shall furnish to the director a resolution in writing transmitting the official action of the board of directors of the organization he represents so nominating him.

CHAPTER 1128

An act to add Title 3 to Part 4 of the Penal Code and to repeal Sections 11109, 11110, 11111, 11113, and 11114 of said code, relating to a Uniform Criminal Statistics Act, based upon the uniform act adopted by the National Conference of Commissioners on Uniform State Laws.

[Approved by Governor June 18, 1955. Filed with Secretary of State June 20, 1955.]

In effect September 7, 1955

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

SECTION 1. Title 3 is added to Part 4 of the Penal Code, to read:

TITLE 3. CRIMINAL STATISTICS

CHAPTER 1. BUREAU OF CRIMINAL STATISTICS

Article 1. Administration

Bureau of Criminal Statistics:

13000. There is in the Department of Justice a Bureau of Criminal Statistics.

Chief

13001. The bureau shall be supervised by a Chief, Bureau of Criminal Statistics, who shall be a person with statistical training and experience and possessing a good knowledge of the problems of criminal law enforcement and administration and penal and correctional institutions and methods.

The Attorney General shall appoint the chief and employees of the bureau, subject to provisions of the State Civil Service Act.

The tenure and status of the chief and employees of the bureau, as heretofore constituted, shall not be affected by the enactment of this title.

Article 2. Duties of the Bureau

Duties of bureau

13010. It shall be the duty of the bureau:

(a) To collect data necessary for the work of the bureau, from all persons and agencies mentioned in Section 13020 and from any other appropriate source;

(b) To prepare and distribute to all such persons and agencies, cards or other forms used in reporting data to the bureau. Such cards or forms may, in addition to other items, include items of information needed by federal bureaus or departments engaged in the development of national and uniform criminal statistics;

(c) To recommend the form and content of records which must be kept by such persons and agencies in order to insure the correct reporting of data to the bureau;

(d) To instruct such persons and agencies in the installation, maintenance, and use of such records and in the reporting of data therefrom to the bureau;

(e) To process, tabulate, analyze and interpret the data collected from such persons and agencies;

(f) To supply, at their request, to federal bureaus or departments engaged in the collection of national criminal statistics data they need from this State; and

(g) To present to the Governor, on or before July 1st, a printed annual report containing the criminal statistics of the preceding calendar year and to present at such other times as the Attorney General may approve reports on special aspects of criminal statistics. A sufficient number of copies of all reports shall be printed or otherwise prepared to enable the Attorney General to send a copy to all public officials in the State dealing with criminals and to distribute them generally in channels where they will add to the public enlightenment.

Service as statistical and research agency

13011. The bureau may serve as statistical and research agency to the Department of Corrections, the Adult Authority, the Board of Corrections, the Department of the Youth Authority and the Board of Trustees of the California Institution for Women.

Annual report: Contents

13012. The annual report of the chief provided for in Section 13010 shall contain statistics showing:

(a) The amount and the types of offenses known to the public authorities;

(b) The personal and social characteristics of criminals and delinquents; and

(c) The administrative actions taken by law enforcement, judicial, penal and correctional agencies or institutions in dealing with criminals or delinquents.

It shall be the duty of the chief to give adequate interpretation of such statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall

include also statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

Article 3. Duties of Public Agencies and Officers

13020. It shall be the duty of every constable, city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, the Department of Justice, Department of Corrections, Adult Authority, Department of the Youth Authority, and the Board of Trustees of the California Institution for Women, Department of Mental Hygiene, Department of Public Health, Department of Social Welfare, State Fire Marshal, Liquor Control Administrator, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

Duties of public agencies and officers

(a) To install and maintain records needed for the correct reporting of statistical data required by the bureau;

(b) To report statistical data to the bureau at such times and in such manner as the Attorney General prescribes;

(c) To give to the Attorney General, or his accredited agent, access to statistical data for the purpose of carrying out the provisions of this title.

Article 4. Repeal

13030. Sections 11109, 11110, 11111, 11113, and 11114 of the Penal Code are hereby repealed.

Repeal

CHAPTER 1129

An act to amend Sections 24864 and 24871 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor June 13, 1955. Filed with Secretary of State June 20, 1955.]

In effect September 7, 1955

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

SECTION 1. Section 24864 of the Business and Professions Code is amended to read:

24864. For the purpose of providing different selling or resale prices, the State may be divided into the following trading areas:

Trading areas:

(a) Mountain trading area, which consists of the Counties of Del Norte, Siskiyou, Modoc, Shasta, Trinity, Humboldt, Lassen, Mendocino, Tehama, Plumas, Butte, Sierra, Nevada, Placer, El Dorado, Amador, Calaveras, Alpine, Tuolumne, Mariposa, Mono, Inyo, and Imperial, and those portions of the Counties of Kern, San Bernardino and Riverside which lie east of the mountain divide of the Sierra Nevada, Tehachapi, and San Bernardino Mountains, commonly known as the Desert Country.

Mountain

SEC. 3. Section 3042 of said code is amended to read:
3042. At least 30 days before the Adult Authority shall meet to consider the granting of a parole to any prisoner the authority shall send written notice thereof to each of the following persons who has made request therefor: the judge of the superior court before whom the prisoner was tried and convicted, the attorney for the defendant, the district attorney, the sheriff of the county from which the prisoner was sentenced, and the law enforcement agency that investigated the case if the sheriff's department did not investigate the case.

CHAPTER 238

An act to amend Section 21363.6 of the Government Code, and to amend Sections 1389.7 and 2690 of, and the heading of Chapter 1 (commencing with Section 3200) of Title 2, Part 3 of, and Sections 3320, 3325, 5001, 5055, 5089, 6025, 6025.5, 6053, 6403, 11193, 13011, and 13020 of, and to amend and renumber the heading of Article 2 (commencing with Section 3320) of Chapter 2, Title 2, Part 3 and Section 3327 of, and to add Chapter 5.5 (commencing with Section 6035) to Title 7, Part 3 of, and to repeal Article 1 (commencing with Section 3299) of Chapter 2, Title 2, Part 3, and Sections 3326 and 3331 of, the Penal Code, relating to female prisoners.

[Approved by Governor May 10, 1965. Filed with Secretary of State May 10, 1965.]

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

SECTION 1. Section 1389.7 of the Penal Code is amended to read:
1389.7. When, pursuant to the Agreement on Detainers, a person in actual confinement under sentence of another jurisdiction is brought before a California court and sentenced by the judge to serve a California sentence concurrently with the sentence of the other jurisdiction, the Adult Authority and the California Women's Board of Terms and Parole, and the panels and members thereof, may meet in such other jurisdiction, or enter into cooperative arrangements with corresponding agencies in the other jurisdiction, as necessary to carry out the term-fixing and parole functions.
SEC. 2. Section 2690 of said code is amended to read:
2690. The Director of Corrections may authorize the temporary removal under custody from prison or any other institution for the detention of adults under the jurisdiction of the Department of Corrections of any inmate, for the purpose of employing said person in any work directly connected with the administration, management, or maintenance of the prison or institution in which he is confined, or of furnishing to the person medical treatment not available at the prison or institu-

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tion, or for purposes of cooperating voluntarily in medical research which cannot be performed at the prison or institution, or for the purpose of arranging parole placement programs at any time within 90 days of scheduled parole release at the request of the Adult Authority, governing male prisoners, and at the request of the California Women's Board of Terms and Parole, governing female prisoners.

Except in the case of removal for medical treatment, such removal shall not be for a period longer than one day.

SEC. 3. The heading of Chapter 1 (commencing with Section 3200) of Title 2 of Part 3 of the Penal Code is amended to read:

CHAPTER 1. ESTABLISHMENT OF INSTITUTION FOR WOMEN

SEC. 4. Article 1 (commencing with Section 3299) of Chapter 2 of Title 2 of Part 3 of the Penal Code is repealed.

SEC. 5. The heading of Article 2 (commencing with Section 3320) of Chapter 2 of Title 2 of Part 3 of said code is amended and renumbered to read:

Article 1. Administration of Institution for Women

SEC. 6. Section 3320 of said code is amended to read:

3320. The Superintendent of the California Institution for Women shall be a woman, who shall have immediate charge and management of the institution, subject to the control of the department. The department may employ other assistants, officers and employees for the institution.

SEC. 7. Section 3325 of said code is amended to read:

3325. The superintendent shall, subject to the control of the director, have such powers, perform such duties and exercise such functions, respecting such females convicted of felonies, as the wardens now exercise over male prisoners.

SEC. 8. Section 3326 of said code is repealed.

SEC. 9. Section 3327 of said code is amended and renumbered to read:

3326. The department is authorized to provide the necessary facilities, equipment, and personnel to operate a commissary at said institution for the sale of toilet articles, candy, tobacco products, gum, notions, and other sundries.

SEC. 10. Section 3331 of said code is repealed.

SEC. 11. Section 5001 of said code is amended to read:

5001. The department is composed of the Director of Corrections, the Adult Authority, the California Women's Board of Terms and Parole, and the Correctional Industries Commission.

SEC. 12. Section 5055 of said code is amended to read:

5055. All powers and duties granted to and imposed upon the Department of Corrections shall be exercised by the Director of Corrections, except where such powers and duties are

expressly vested by law in the Adult Authority or the California Women's Board of Terms and Parole.

Whenever a power is granted to the Director of Corrections or a duty is imposed upon the director, the power may be exercised or the duty performed by a deputy of the director or by a person authorized pursuant to law by the director.

SEC. 13. Section 5089 of said code is amended to read:

5089. The Adult Authority and the California Women's Board of Terms and Parole may each designate a representative who shall be notified of the time and place of meetings of the Correctional Industries Commission, and may attend such meetings and participate in the deliberations of the commission, but shall have no vote.

SEC. 14. Section 6025 of said code is amended to read:

6025. The Board of Corrections is composed of the Administrator of the Youth and Adult Corrections Agency, the Director of Corrections, the Director of the Youth Authority, the Chairman of the Adult Authority, the Vice Chairman of the Youth Authority, the Chairman of the California Women's Board of Terms and Parole, and two qualified persons appointed by the Governor, with the advice and consent of the Senate.

The Administrator of the Youth and Adult Corrections Agency shall be Chairman of the Board of Corrections. The Board of Corrections shall select from its members a vice chairman who shall preside when the chairman is absent or is ineligible to act as a member of the Board of Corrections.

When the Board of Corrections is hearing charges against any member, the individual concerned shall not sit as a member of the board for the period of hearing of charges and the determination of recommendations to the Governor.

SEC. 15. Section 6025.5 of said code is amended to read:

6025.5. The Director of Corrections, Adult Authority, California Women's Board of Terms and Parole, the Youth Authority Board, and the Director of the Youth Authority shall file with the Board of Corrections for information of the board or for review and advice to the respective agency as the board may determine, all rules, regulations and manuals relating to or in implementation of policies, procedures, or enabling laws.

SEC. 16. Chapter 5.5 (commencing with Section 6035) is added to Title 7 of Part 3 of said code, to read:

CHAPTER 5.5. CALIFORNIA WOMEN'S BOARD OF TERMS AND PAROLE

6035. (a) There is in the Department of Corrections a California Women's Board of Terms and Parole.

(b) As used in this chapter "board" refers to the California Women's Board of Terms and Parole.

(c) Any statute of this state referring to the Board of Trustees, California Institution for Women, shall be deemed

to refer to the California Women's Board of Terms and Parole.

6036. The board consists of five members appointed by the Governor, three of whom shall be women. The chairman shall be designated by the Governor from time to time.

Persons selected for appointment to the board shall have a sympathetic interest in corrections work, and insofar as practicable have a broad background in and ability for appraisal of law offenders and the circumstances of the offense for which committed.

6037. The terms of office of the members of the board shall expire as follows: two on March 15, 1955, one on March 15, 1956, and two on March 15, 1957. Their successors shall hold office for terms of four years and until the appointment and qualification of their successors, each term to commence on the expiration date of the term of the predecessor. Members shall be eligible for reappointment.

6038. The Governor may remove any member of the board for misconduct, incompetency or neglect of duty after a full hearing by the Board of Corrections.

6039. Vacancies on the board shall be filled by appointment for the unexpired term.

6040. The members of the board shall be entitled to their reasonable expenses, including traveling expenses, incurred in the discharge of their duties.

In addition they shall be entitled to a per diem of fifty dollars ($50) per day for not to exceed 120 days in any year for attendance upon business of the trustees or the Board of Corrections. The chairman shall be entitled to a per diem of fifty dollars ($50) per day for not to exceed 150 days per year.

6041. The board may meet and transact business in panels. Each panel shall consist of at least two members of the board of trustees. Two members shall constitute a quorum for the transaction of business. No action shall be valid unless concurred in by a majority vote of those present.

6042. The board shall report to the Governor biennially, and at such other times as the Governor may direct.

6043. The board shall have such powers, perform such duties and exercise such functions, respecting such females convicted of felonies as the Adult Authority exercises over male prisoners.

The board may advise the Director of Corrections in the establishment of general policies for the operation and maintenance of the California Institution for Women and for the establishment of general policies for the care, custody, treatment, training, discipline and employment of those confined in the institution.

The director may advise the board in the establishment of general policies relating to the functions and duties of the board.

The director shall attend at least once annually a regular meeting of the board while the board is fixing sentences and release dates.

The board may employ case hearing representatives who shall participate with the board in the hearing of cases relating to term fixing and paroles. The case hearing representative assigned to participate in the hearing of any such case shall prepare a case study and evaluation which he shall submit to the board.

The board shall employ such parole officers and other employees as may be necessary to supervise female prisoners on parole.

6044. Following the adjournment of any meeting of the board, and until the convening of the following meeting, any member of the board shall have the power to suspend temporarily the parole of any prisoner, or to take any other action within the power of the board except the fixing and refixing of sentences and the granting of parole, by an order in writing. Such order shall be made only with the oral or written approval of two other members of the board and shall be effective only until the adjournment of the next succeeding meeting of the board. Such order shall be entered in the minutes of that meeting of the board. At that meeting the board shall suspend, cancel, revoke or restore a parole temporarily suspended. No such temporary suspension shall be made without cause, which cause must be stated in the written order.

SEC. 17. Section 6053 of said code is amended to read:

6053. All persons other than temporary appointees heretofore serving in the state civil service and engaged in the performance of a function transferred to the department or engaged in the administration of a law, the administration of which is transferred to the department, shall remain in the state civil service and are hereby transferred to the department on the effective date of this section, and their status, positions and rights shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act. The director, pursuant to the State Civil Service Act, shall be the appointing authority for the department for all civil service positions except those civil service positions in the Youth Authority and the parole employees of the California Women's Board of Terms and Parole. Positions not heretofore established, which are exclusively for the California Institution for Women or exclusively for the Youth Authority, shall be filled pursuant to the State Civil Service Act.

SEC. 18. Section 6403 of said code is amended to read:

6403. (a) There is in the Youth and Adult Corrections Agency a Narcotics Rehabilitation Advisory Council, hereafter referred to in this section as the "council." The council shall be composed of nine members, each of whom shall be appointed by the Governor for a term of four years and until the appointment and qualification of his successor. Members shall be eligible for reappointment. The chairman of the council shall be

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designated by the Governor from time to time. The terms of the members first appointed to the council shall expire as follows: three members on January 15, 1965; three members on January 15, 1966; and three members on January 15, 1967. Their successors shall hold office for four years, each term to commence on the expiration date of the term of the predecessor. Vacancies shall be filled by appointment for the unexpired term. Insofar as practicable, persons appointed to the council shall have a broad background in law, sociology, law enforcement, medicine, or education and shall have a deep interest in the treatment and rehabilitation of narcotic addicts.

(b) Each member of the council shall give such time to the duties of his office as is required. The members of the council shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this chapter. The council shall hold at least four meetings each calendar year. The times and places of such meetings shall be designated by the chairman. In addition, the chairman shall, on written request of three members of the council, summon a meeting for the time and place specified in the request. The chairman shall give notice of each meeting to the Administrator of the Youth and Adult Corrections Agency, the Attorney General, the Director of Corrections, the Director of the Department of Mental Hygiene, the Director of the State Department of Public Health, the Superintendent of the California Rehabilitation Center, the Chairman of the Adult Authority, the Chairman of the California Women's Board of Terms and Parole, and to representatives of statewide and regional professional organizations which appear to him to have a strong interest in the treatment and rehabilitation of narcotic addicts.

(c) The council shall:

(1) Advise the Governor, the Administrator of the Youth and Adult Corrections Agency, the Director of Corrections, and the Narcotic Addict Evaluation Authority, and the Superintendent of the California Rehabilitation Center with respect to the receiving, confinement, control, employment, education, treatment, release policies and procedures, outpatient care and supervision, and rehabilitation of persons who are or have been addicted to narcotics or who by reason of repeated use of narcotics are in imminent danger of becoming addicted;

(2) Study the operation of the California Rehabilitation Center and all research programs conducted in connection therewith, and assist in the planning, evaluating and interpretation of, the detention and treatment program as well as the policies and procedures employed in the supervision and management of persons committed to the program who are in either outpatient status or inpatient status;

(3) Submit at least one report annually to the Governor and the Legislature. Such report or reports will be transmitted

through the office of the Administrator of the Youth and Adult Corrections Agency.

(d) The council shall not exercise any administrative functions or responsibilities in connection with the operation of the California Rehabilitation Center and related programs. Its functions and duties are limited to acting in an advisory capacity.

(e) Expenses of the council and its members shall be paid from the appropriation for the support of the California Rehabilitation Center.

SEC. 19. Section 11193 of said code is amended to read:

11193. The Adult Authority, or the California Women's Board of Terms and Parole, as appropriate, or its duly authorized representative is hereby authorized and directed to hold such hearings as may be requested by any other party state pursuant to Article IV (f) of the Western Interstate Corrections Compact.

SEC. 20. Section 13011 of said code is amended to read:

13011. The bureau may serve as statistical and research agency to the Department of Corrections, the Adult Authority, the Board of Corrections, the Department of the Youth Authority and the California Women's Board of Terms and Parole.

SEC. 21. Section 13020 of said code is amended to read:

13020. It shall be the duty of every constable, city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, the Department of Justice, Department of Corrections, Adult Authority, Department of the Youth Authority, California Women's Board of Terms and Parole, Department of Mental Hygiene, Department of Public Health, Department of Social Welfare, State Fire Marshal, Liquor Control Administrator, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by the bureau;

(b) To report statistical data to the bureau at such times and in such manner as the Attorney General prescribes;

(c) To give to the Attorney General, or his accredited agent, access to statistical data for the purpose of carrying out the provisions of this title.

SEC. 22. Section 21363.6 of the Government Code is amended to read:

21363.6. The special death benefit is also payable if the deceased was the Administrator of the Youth and Adult Corrections Agency, or was a state member appointed by the Administrator of the Youth and Adult Corrections Agency, the Youth Authority, the Board of Trustees of the California Institution for Women or the California Women's Board of Terms and Parole, the Board of Corrections, or was a member

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of the Board of Corrections or the Youth Authority not already classified as a prison member, provided that his death occurred as a result of misconduct of an inmate of a state prison, correctional school or facility of the Department of Corrections or the Youth Authority, or a parolee therefrom.

The special death benefit provided by this section is not payable unless the death of the member arose out of and was in the course of his official duties as determined by the Industrial Accident Commission, using the same procedure as in workmen's compensation hearings; and unless there is a child or wife who qualifies under subdivision (b) of Section 21364.

CHAPTER 239

An act to amend Section 868 of the Penal Code, relating to preliminary examinations.

[Approved by Governor May 10, 1965. Filed with Secretary of State May 10, 1965.]

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

SECTION 1. Section 868 of the Penal Code is amended to read:

868. The magistrate must also, upon the request of the defendant, exclude from the examination every person except his clerk, court reporter and bailiff, the prosecutor and his counsel, the Attorney General, the district attorney of the county, the investigating officer, the officer having custody of a prisoner witness while the prisoner is testifying, the defendant and his counsel, and the officer having the defendant in custody; provided, however, that when the prosecuting witness is a female she shall be entitled at all times to the attendance of a person of her own sex. Nothing in this section shall affect the right to exclude witnesses as provided in Section 867 of the Penal Code.

CHAPTER 240

An act to add Section 43.1, and to add Article 7.5 (commencing with Section 115), to the Solvang Municipal Improvement District Act (Chapter 1635, Statutes of 1951), relating to the Solvang Municipal Improvement District, declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 10, 1965. Filed with Secretary of State May 10, 1965.]

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

SECTION 1. Section 43.1 is added to the Solvang Municipal Improvement District Act (Chapter 1635, Statutes of 1951), to read:

Sec. 43.1. The board may compel the owner, lessee or occupant of buildings, grounds, or lots to remove dirt, rubbish,

CHAPTER 1157

An act to add Section 13021 to the Penal Code, relating to reporting by law enforcement agencies.

[Approved by Governor August 14, 1967. Filed with Secretary of State August 14, 1967.]

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

SECTION 1. Section 13021 is added to the Penal Code, to read:

13021. Local law enforcement agencies shall report to the bureau such information as the Attorney General may by regulation require relative to misdemeanor violations of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 of this code.

CHAPTER 1158

An act to amend Sections 74134, 74136, and 74138 of the Government Code, relating to municipal courts.

[Approved by Governor August 14, 1967. Filed with Secretary of State August 14, 1967.]

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

SECTION 1. Section 74134 of the Government Code is amended to read:

74134. In the Riverside Judicial District, the salary of the clerk shall be on range 48 and the clerk may appoint:

(a) 1 assistant clerk on range 44.
(b) 8 municipal court clerks II on range 41.
(c) 5 municipal court clerks I on range 40.
(d) 1 principal account clerk on range 40.
(e) 1 senior clerk on range 36.
(f) 1 stenographer clerk II on range 35.
(g) 1 account clerk II on range 35.
(h) 14 clerks II on range 34.

SEC. 2. Section 74136 of the Government Code is amended to read:

74136. In the Desert Judicial District, the salary of the clerk shall be on range 48 and the clerk may appoint:

(a) 1 assistant clerk on range 44.
(b) 2 municipal court clerks II on range 41.
(c) 5 municipal court clerks I on range 40.
(d) 1 senior account clerk on range 37.
(e) 2 senior clerks on range 36.
(f) 8 clerks II on range 34.

SEC. 2. Section 38181 of the Agricultural Code is amended to read:

38181. Skim milk or nonfat milk is the product which results from the complete or partial removal of milk fat from milk. It shall contain not more than twenty-five hundredths of 1 percent of milk fat and not less than 9 percent of milk solids not fat, except that milk produced and marketed pursuant to Article 7 (commencing with Section 35921) of Chapter 2 of Part 2 of this division as skim milk shall contain not more than twenty-five hundredths of 1 percent of milk fat and not less than 8.5 percent of milk solids not fat.

SEC. 3. The provisions of this act shall become operative on January 1, 1972.

CHAPTER 1202

An act to amend Section 13009 of the Health and Safety Code, relating to fires.

[Approved by Governor October 21, 1971. Filed with Secretary of State October 21, 1971.]

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

SECTION 1. Section 13009 of the Health and Safety Code is amended to read:

13009. Any person who negligently, or in violation of the law, sets a fire, allows a fire to be set, or allows a fire kindled or attended by him to escape onto any forest, range or nonresidential grass-covered land is liable for the expense of fighting the fire and such expense shall be a charge against that person. Such charge shall constitute a debt of such person, and is collectible by the person, or by the federal, state, county, public, or private agency, incurring such expenses in the same manner as in the case of an obligation under a contract, expressed or implied.

CHAPTER 1203

An act to amend Section 13010 of the Penal Code, relating to the Bureau of Criminal Statistics.

[Approved by Governor October 21, 1971. Filed with Secretary of State October 21, 1971.]

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

SECTION 1. Section 13010 of the Penal Code is amended to read:

13010. It shall be the duty of the bureau:

(a) To collect data necessary for the work of the bureau, from all persons and agencies mentioned in Section 13020 and from any other appropriate source;

(b) To prepare and distribute to all such persons and agencies, cards or other forms used in reporting data to the bureau. Such cards or forms may, in addition to other items, include items of information needed by federal bureaus or departments engaged in the development of national and uniform criminal statistics;

(c) To recommend the form and content of records which must be kept by such persons and agencies in order to insure the correct reporting of data to the bureau;

(d) To instruct such persons and agencies in the installation, maintenance, and use of such records and in the reporting of data therefrom to the bureau;

(e) To process, tabulate, analyze and interpret the data collected from such persons and agencies;

(f) To supply, at their request, to federal bureaus or departments engaged in the collection of national criminal statistics data they need from this state; and

(g) To present to the Governor, on or before July 1st, a printed annual report containing the criminal statistics of the preceding calendar year and to present at such other times as the Attorney General may approve reports on special aspects of criminal statistics. A sufficient number of copies of all reports shall be printed or otherwise prepared to enable the Attorney General to send a copy to all public officials in the state dealing with criminals and to distribute them generally in channels where they will add to the public enlightenment.

(h) To periodically review the requirements of units of government using criminal justice statistics, and to make recommendations to the Attorney General for changes it deems necessary in the design of criminal justice statistics systems, including new techniques of collection and processing made possible by automation.

CHAPTER 1204

An act to amend Sections 28020, 28023, 28024, 28025, 28026, 28027, 28028, 28029, 28030, 28031, 28032, 28033, 28034, 28035, 28036, 28037, 28038, 28039, 28040, 28041, 28042, 28043, 28044, 28045, 28046, 28047, 28048, 28049, 28050, 28051, 28052, 28053, 28054, 28055, 28056, 28057, 28058, 28059, 28060, 28061, 28062, 28063, 28064, 28065, 28066, 28067, 28068, 28069, 28070, 28071, 28072, 28073, 28074, 28075, 28076, 28077, and 28078 of, to add Chapter 12 (commencing with Section 76000) to Title 8 of, and to repeal Chapter 12 (commencing with Section 76000) of Title 8 of, the Government Code, relating to counties.

[Approved by Governor October 21, 1971. Filed with Secretary of State October 21, 1971.]

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but not limited to, its conclusions and recommendations for further action on each of the purposes and objectives specified in subdivisions (a) to (e), inclusive, of this section.

SEC. 3. There is hereby appropriated from the General Fund in the State Treasury the sum of one hundred fifty thousand dollars ($150,000) to the Coordinating Council for Higher Education, to be available for expenditure for the purposes of this act.

CHAPTER 1377

An act to amend Sections 6876.1, 21625, 21632, 21633, 21634, and 21635 of the Business and Professions Code, to amend Section 607f of the Civil Code, to amend Sections 10401 and 10402 of the Corporations Code, to amend Sections 13128, 13588, and 13589 of the Education Code, to amend Section 21208 of the Financial Code, to amend Sections 1030, 14710, 15001, 15100, 15103, 15104, 20017.75, 20803.7, and 22013 of, and to repeal Section 20017.7 of, the Government Code, to amend Sections 11002.1, 11102, 11103, 11104, 11105, 11106, 11166.05, 11166.08, 11166.10, 11166.11, 11177, 11226, 11228, 11250, 11331.5, 11332, 11333, 11395, 11425, 11426, 11573, 11574, 11576, 11652, 11654, 11655, 11655.6, 11656, 11657, 11680, 11722, 11851, 11852, 11853, 11903, 11925.1, 11925.2, 11925.3, and 11925.4 of, to repeal Sections 11004, 11005, 11100, and 11101 of, to amend, repeal, and add Sections 11655.5 and 11722 of, and to amend the heading of Chapter 2 (commencing with Section 11100) of Division 10 of, the Health and Safety Code, to amend Sections 3212.7, 4800, 4802, and 4803 of the Labor Code, to amend Sections 290, 830.3, 2082, 4852.12, 4852.14, 4852.17, 11006, 11050, 11050.5, 11051, 11102, 11105, 11107, 11110, 11113, 11115, 11116, 11117, 11120, 11122, 11123, 11124, 11125, 11126, 11127, 11150, 11152, 11161.5, 12030, 12052, 12053, 12054, 12075, 12076, 12077, 12078, 12079, 12090, 12092, 12094, 12230, 12231, 12250, 12251, 12305, 12306, 12307, 12403, 12423, 12424, 12435, 12450, 12452, 12454, 12455, 12456, 12457, 12458, 13010, 13011, 13012, 13020, 13021, and 13022 of, to repeal Sections 11000, 11005, and 11007 of, to amend the heading of Chapter 1 (commencing with Section 11000) of Title 1 of Part 4 of, and to repeal Article 1 (commencing with Section 13000) of Chapter 1 of Title 3 of Part 4 of, the Penal Code, and to amend Sections 504 and 5328.2 of, and to amend, add, and repeal Sections 8104 and 16018 of, the Welfare and Institutions Code, relating to the Department of Justice.

[Approved by Governor December 26, 1972. Filed with Secretary of State December 26, 1972.]

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

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SECTION 1. Section 6876.1 of the Business and Professions Code is amended to read:

6876.1. The chief may receive from the Department of Justice information relative to the fitness of employees of collection agencies, other than clerical or secretarial employees, or of managers, owners, partners, and officers of collection agencies licensed at the effective date of this chapter or of any collection agency licensee or applicant applying for licensure. Such information shall not be considered a public record.

SEC. 2. Section 21625 of the Business and Professions Code is amended to read:

21625. It is the intent of the Legislature in enacting this article to require the statewide reporting of identifiable secondhand tangible personal property acquired by persons whose principal business is the buying, selling, trading, auctioning, or taking in pawn of secondhand personal property, unless the property or the transaction is specifically exempt herein, for the purpose of correlating these reports with other reports of city, county, and city and county law enforcement agencies and further utilizing the services of the Department of Justice to aid in tracing and recovering stolen property.

Further, it is the intent of the Legislature that this article shall not supersede or supplant the provisions or affect the operation of any city, county, or city and county ordinance with respect to reporting by secondhand dealers, as defined herein, whether or not such ordinance requires incidental holding or releasing of identifiable secondhand tangible personal property required to be reported.

It is the further intent of the Legislature that this article shall be applicable to any secondhand dealer, as defined herein, that is not required to report identifiable secondhand tangible personal property under the provisions of a city, county, or city and county ordinance.

SEC. 3. Section 21632 of the Business and Professions Code is amended to read:

21632. In the absence of a city, county, or city and county ordinance requiring any reporting of property acquired by a secondhand dealer in transactions enumerated in Section 21628, the report shall be submitted on forms prescribed by the Department of Justice and in accordance with the provisions of Sections 21628 and 21630.

SEC. 4. Section 21633 of the Business and Professions Code is amended to read:

21633. The report forms prescribed by the Department of Justice shall consist of not less than an original and two copies. The original and the duplicate copy shall be submitted by the secondhand dealer in accordance with the provisions of Sections 21628 and 21630. The triplicate copy shall be retained by the secondhand dealer in his place of business for a period of three years and shall be made available for inspection by any law enforcement officer. 030

SEC. 5. Section 21634 of the Business and Professions Code is amended to read:

21634. The chief of police or the sheriff who receives a report on a form filed pursuant to the provisions of this article shall daily submit the original to the Department of Justice.

SEC. 6. Section 21635 of the Business and Professions Code is amended to read:

21635. Where a report is made in conformity with the provisions of a city, county, or city and county ordinance, on a form not prescribed by the Department of Justice, the chief of police or the sheriff who receives the report shall submit to the Department of Justice the information contained in the report concerning identifiable secondhand tangible personal property as set forth in Section 21627 and transactions as set forth in Section 21628.

SEC. 7. Section 607f of the Civil Code, as amended by Chapter 1094 of the Statutes of 1971, is amended to read:

607f. Any such corporation incorporated for the purpose of the prevention of cruelty to animals may by resolution of its board of directors or trustees duly entered on its minutes appoint any number of its members, who shall be citizens of the State of California, as humane officers. Each appointment of a humane officer shall be by separate resolution. Such resolution shall state the full name and place of residence and the business or occupation of the person so appointed and the fact that he is a citizen of the State of California and shall also designate the number of the badge to be allotted to such officer.

The society shall recommend any such appointee to the judge of the superior court in and for the county or city and county in which the appointee resides, and shall deliver to the judge a copy of the resolution appointing such person, duly certified to be correct by the president and secretary of such corporation and attested by its seal, together with the fingerprints of such appointee taken on standard 8 x 8-inch cards.

The judge shall send a copy of the resolution, together with the fingerprints of the appointee, to the Department of Justice, which shall thereupon submit to the judge, in writing, a report of the record in its possession, if any, of the appointee. If the Department of Justice has no record of the appointee, it shall so report to the judge in writing.

Upon receipt of the report the judge shall review the matter of the appointee's qualifications and fitness to act as a humane officer and, if he reaffirms such appointment, shall so state on a court order confirming the appointment. Said appointee shall thereupon file a certified copy of the reviewed court order in the office of the county clerk of said county or city and county and shall at the same time take and subscribe the oath of office prescribed for constables or other peace officers.

The county clerk shall thereupon immediately enter in a book to be kept in his office and designated "Record of Humane Officers"

the name of such officer, the number of his badge, the name of the judge appointing him and the date of such filing. At the time of such filing the county clerk shall collect from such officer a fee of fifty cents ($0.50), which shall be in full for all services to be performed by the county clerk under the provisions of this section.

All such appointments of humane officers shall automatically expire within three years from the date on which the said certified copy of the court order was filed with the county clerk. Officers whose appointments are about to expire may only be reappointed in the same manner as hereinbefore provided for new appointments.

The corporation appointing such officer may revoke such appointment at any time by filing in the office of the county clerk in which the appointment of such officer is recorded a copy of such revocation in writing under the letterhead of such corporation and duly certified by its executive officer. Upon such filing the county clerk shall enter the fact of such revocation and the date of the filing thereof opposite the name of such officer in such record of humane officers.

Such humane officers after qualifying as above provided, shall have power at all places within the state lawfully to interfere to prevent the perpetration of any act of cruelty upon any dumb animal and may use such force as may be necessary to prevent the same and to that end may summon to their aid any bystander. They may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as a constable or other peace officer. Except as otherwise provided by this section, a humane officer shall serve only in the county in which he is appointed. A humane officer may serve in a county other than that in which he is appointed only if he first informs the sheriff of the county that he intends to serve in such county. A humane officer is authorized to carry weapons while engaged in his duties as a humane officer, upon satisfactory completion of training, as approved by the Commission on Peace Officer Standards and Training, in the use of weapons.

Every humane officer must when making such arrest exhibit and expose a suitable badge to be adopted by the corporation under this title of which he is a member which shall bear its name and a number. Any person resisting a humane officer in the performance of his duty as provided in this section, shall be guilty of a misdemeanor. Any person who has not been appointed and qualified as a humane officer as provided in this section, or whose appointment has been revoked as provided in this section, or whose appointment, having expired, has not been renewed as provided in this section, who shall represent himself to be or shall attempt to act as such officer shall be guilty of a misdemeanor.

The provisions of this section added by amendments at the 1971 Regular Session shall apply only to humane officers appointed or reappointed after the effective date of such amendments.

SEC. 8. Section 10401 of the Corporations Code is amended to read:

10401. All articles of incorporation of such corporations filed with the Secretary of State shall be endorsed by the Department of Justice or by a judge of the superior court of the county in which the principal office of the corporation is located, as evidence of necessity.

SEC. 9. Section 10402 of the Corporations Code is amended to read:

10402. The endorsement of a judge of the superior court shall not be granted, however, unless the endorsement of the Department of Justice has been first refused or withheld for more than 90 days. If the endorsement of the Department of Justice is withheld for more than 90 days, or refused, application may be made to the judge of the superior court of the county in which the principal office of the corporation is located, and if, after giving due consideration to the necessity of such corporation and assuring himself that the incorporators are acting in good faith, the judge so desires, he may endorse the articles.

SEC. 10. Section 13128 of the Education Code, as amended by Chapter 1391 of the Statutes of 1970, is amended to read:

13128. The State Board of Education is authorized to secure information, records, reports, and other data relative to the identification or fitness of any applicant for a life diploma or a credential or for the renewal of a credential from any agency or department of the state and for that purpose, any provision of law to the contrary notwithstanding:

(a) The Department of Justice shall furnish, upon application of the State Board of Education, all summary criminal history information pertaining to any applicant of whom there is a record in its office.

(b) Each institution under the jurisdiction of the Department of Mental Hygiene shall furnish upon application of the State Board of Education and with the consent of the holder or applicant, all information and records pertaining to that holder or applicant of whom there is a record in its office.

The State Board of Education, upon written request of any private school authority, shall release to that private school authority information and other data relative to the identification or fitness of any applicant for a teaching position in the private school so long as not otherwise prohibited by any other privileged communication statutes.

The amendments made to this section during the 1972 Regular Session of the Legislature shall not be deemed to supersede the repeal of this section by Chapter 981 of the Statutes of 1971.

SEC. 11. Section 13588 of the Education Code, as amended by Chapter 1309 of the Statutes of 1971, is amended to read:

13588. The governing board of any school district shall, within 10 working days of date of employment, require each person to be employed, or employed in, a position not requiring certification qualifications to have two 8" x 8" fingerprint cards bearing the legible rolled and flat impressions of such person's fingerprints

together with a personal description of the applicant or employee, as the case may be, prepared by a local public law enforcement agency having jurisdiction in the area of the school district, which agency shall transmit such cards, together with the fee hereinafter specified, to the Department of Justice; except that a district, or districts with a common board, having an average daily attendance of 60,000 or more may process the fingerprint cards in the event the district so elects. "Local public law enforcement agency" as used herein and in Section 13589 includes a school district with an average daily attendance of 60,000 or more. Upon receiving such identification cards, the Department of Justice shall ascertain whether the applicant or employee has been arrested or convicted of any crime insofar as such fact can be ascertained from information available to the department and forward such information to the local public law enforcement agency submitting the applicant's or employee's fingerprints at the earliest possible date. At its discretion, the Department of Justice may forward one copy of the fingerprint cards submitted to any other bureau of investigation it may deem necessary in order to verify any record of previous arrests or convictions of the applicant or employee.

The governing board of each district shall forward a request to the Department of Justice indicating the number of current employees who have not completed the requirements of this section. The Department of Justice shall direct when such cards are to be forwarded to it for processing which in no event shall be later than two years from the date of enactment of this section. Districts which have previously submitted identification cards for current employees to either the Department of Justice or the Federal Bureau of Investigation shall not be required to further implement the provisions of this section as it applies to those employees.

A plea or verdict of guilty or a finding of guilt by a court in a trial without a jury or forfeiture of bail is deemed to be a conviction within the meaning of this section, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the withdrawal of the plea of guilty and entering of a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information.

The governing board shall provide the means whereby the identification cards may be completed and shall charge a fee determined by the Department of Justice to be sufficient to reimburse the department for the costs incurred in processing the application. The amount of such fee shall be forwarded to the Department of Justice, with two copies of applicant's or employee's fingerprint cards. The governing board may collect an additional fee not to exceed two dollars ($2) payable to the local public law enforcement agency taking the fingerprints and completing the data on the fingerprint cards. Such additional fees shall be transmitted to the city or county treasury. If an applicant is subsequently hired by the board within 30 days of the application, such fee may be

reimbursed to the applicant. Funds not reimbursed applicants shall be credited to the general fund of the district. If the fingerprint cards forwarded to the Department of Justice are those of a person already in the employ of the governing board, the district shall pay the fee required by this section, which fee shall be a proper charge against the general fund of the district, and no fee shall be charged the employee.

Notwithstanding the foregoing, substitute and temporary employees, employed for less than a school year, may be exempted from these provisions. The provisions of this section shall not apply to a district, or districts with a common board, which has an average daily attendance of 400,000 or greater, or to a school district wholly within a city and county, unless the governing board of such district or districts, by rule, provides for adherence to this section.

SEC. 12. Section 13589 of the Education Code is amended to read:

13589. Any provision of law to the contrary notwithstanding, the Department of Justice, shall, as provided in Section 13588, furnish, upon application of a local public law enforcement agency all information pertaining to any such person of whom there is a record in its office.

SEC. 13. Section 21208 of the Financial Code is amended to read:

21208. Every pawnbroker shall report daily all descriptions of all property received in pawn or purchased as secondhand merchandise, in whatever quantity received, including property purchased as secondhand merchandise at wholesale, secondhand merchandise taken in for sale or possessed on consignment for sale, and secondhand merchandise taken in trade; provided, however, that no such report need be made concerning property or merchandise acquired from another pawnbroker in a transaction involving the purchase or other acquisition from the other pawnbroker of his stock in trade or a substantial part thereof in bulk, where the other pawnbroker has made the reports required by this section with respect to that property or merchandise.

If the transaction took place within the territorial limits of an incorporated city, the report shall be submitted to the chief of police of the city. If the transaction took place outside the territorial limits of an incorporated city, the reports shall be submitted to the sheriff of the county.

All reports shall be on forms approved by or prescribed by the Department of Justice. They shall otherwise comply with and be submitted in accordance with the terms of any applicable city, county, or city and county ordinances requiring such reporting. In the absence of local ordinances requiring such reporting, the reports shall be submitted to the chief of police or the sheriff.

SEC. 14. Section 1030 of the Government Code is amended to read:

1030. A classifiable set of the fingerprints of every person who is now employed, or who hereafter becomes employed, as a peace officer of the state, or of a county, city, city and county or other

political subdivision, whether with or without compensation, shall be furnished to the Department of Justice and to the Federal Bureau of Investigation by the sheriff, chief of police or other appropriate appointing authority of the agency by whom the person is employed.

This section shall not apply to any currently employed peace officer whose appointment antedates the effective date of this section and whose fingerprints have already been submitted by his appointing authority to the Department of Justice and to the Federal Bureau of Investigation.

SEC. 15. Section 14710 of the Government Code is amended to read:

14710. The Director of General Services shall fix the charge to be paid by any state department, officer, board, or commission, or any city, county, city and county, or other public agency to the Department of Justice for transmitting messages over the state's teletype system.

SEC. 16. Section 15001 of the Government Code is amended to read:

15001. The department is composed of the Office of the Attorney General and the Division of Law Enforcement.

SEC. 17. Section 15100 of the Government Code is amended to read:

15100. The California Law Enforcement Telecommunications System shall be operated by the Department of Justice.

SEC. 18. Section 15103 of the Government Code is amended to read:

15103. The department shall file with the Controller a monthly report of all money received for the use of the system, and at the same time deposit all such money with the Treasurer.

SEC. 19. Section 15104 of the Government Code is amended to read:

15104. All sums so deposited shall be credited by the Controller to the appropriation for the support of the department from which the cost of such teletype services were paid, and shall be used by the department for the same purposes for which the appropriation was made.

SEC. 19.5. Section 20017.7 of the Government Code is repealed.

SEC. 20. Section 20017.75 of the Government Code is amended to read:

20017.75. "State safety member" means (a) all persons within the Department of Justice designated as peace officers and performing investigative duties, and (b) the members of the California State Police Division who are peace officers as defined in Section 830.2 of the Penal Code and whose principal duties consist of active law enforcement, but excluding clerical personnel or those whose principal duties are that of telephone operator, machinist, mechanic, security officer or otherwise clearly not within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon to perform duties within the scope of

active law enforcement.

SEC. 20.1. Section 20017.75 of the Government Code is amended to read:

20017.75. "State safety member" means (a) all persons within the Department of Justice designated as peace officers, holding a certificate from the Commission of Peace Officers Standards and Training, and performing investigative duties, and (b) the members of the California State Police Division who are peace officers as defined in Section 830.2 of the Penal Code and whose principal duties consist of active law enforcement, but excluding clerical personnel or those whose principal duties are that of telephone operator, machinist, mechanic, security officer or otherwise clearly not within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon to perform duties within the scope of active law enforcement.

SEC. 20.3. Section 20803.7 of the Government Code is amended to read:

20803.7. "State safety service" means service rendered as a state safety member only while receiving compensation for such service, except as provided in Article 4 (commencing with Section 20890) of this chapter. It also includes service rendered in an employment in which persons have since become state safety members and service rendered prior to the effective date of the amendment to this section at the 1972 Regular Session and falling within the definition of warden, forestry, and law enforcement service under this chapter prior to such amendment.

"State safety service" does not include service as an investigator prior to the effective date of the 1972 Statutes within the Department of Justice of persons who prior to the effective date of the 1972 Statutes were classed as miscellaneous members.

SEC. 20.5. Section 22013 of the Government Code is amended to read:

22013. "Policeman" as used in this part includes members of the California Highway Patrol, state safety members of the Public Employees' Retirement System employed by the Department of Justice, sheriffs, undersheriffs, deputy sheriffs, marshals and deputy marshals, and any other employee of a public agency other than the state or University of California in a position designated as a policeman's position by the board; provided, any such position named herein or as may be designated by the board, is not contrary to any definition, ruling or regulation issued by the federal agency relating to the term "policeman" for the purposes of Section 218(d)(5)(A) of the Social Security Act.

SEC. 21. Section 11002.1 of the Health and Safety Code is amended to read:

11002.1. The department by rule may add new narcotics to those enumerated in Sections 11001 and 11002 after notice and hearing, in accordance with the Administrative Procedure Act, Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2

of the Government Code; provided, however, that such rule shall be drafted in form of proposed narcotic law for submission to the next succeeding general session of the Legislature; and provided further, that no such rule shall remain in effect beyond 61 days after the final adjournment of that session of the Legislature.

SEC. 22. Section 11004 of the Health and Safety Code is repealed.

SEC. 23. Section 11005 of the Health and Safety Code is repealed.

SEC. 24. The heading of Chapter 2 (commencing with Section 11100) of Division 10 of the Health and Safety Code is amended to read:

CHAPTER 2. NARCOTIC ENFORCEMENT RESPONSIBILITIES OF THE DEPARTMENT OF JUSTICE

SEC. 25. Section 11100 of the Health and Safety Code is repealed.

SEC. 26. Section 11101 of the Health and Safety Code is repealed.

SEC. 27. Section 11102 of the Health and Safety Code is amended to read:

11102. The Department of Justice shall enforce all laws regulating the cultivation, production, sale, giving away, prescribing, administering, furnishing, or having in possession narcotic or other dangerous drugs other than those drugs enumerated in schedules "A" and "B" of Chapter 102, Statutes of 1907.

SEC. 28. Section 11103 of the Health and Safety Code is amended to read:

11103. The Attorney General may, in conformity with the State Civil Service Act, employ such agents, chemists, clerical, and other employees as are necessary for the enforcement of the state's narcotic laws.

SEC. 29. Section 11104 of the Health and Safety Code is amended to read:

11104. The Department of Justice may employ a physician to interview and examine any patient for whom any narcotic has been prescribed or to whom any narcotic has been furnished or administered, or who is an habitual user of narcotics, or who has a previous narcotic addiction record.

The patient shall submit to the interview and examination and shall not in any manner hinder or impede it.

The physician employed by the Department of Justice to conduct the interview and examination shall report the results of the examination and interview to the Department of Justice.

The physician so employed may testify in any action brought under this division or in any hearing before the State Board of Medical Examiners or the State Board of Osteopathic Examiners and his testimony is not privileged.

Every person who violates any provision of this section is guilty of a misdemeanor.

SEC. 30. Section 11105 of the Health and Safety Code is amended to read:

11105. Agents appointed pursuant to Section 11103 have the powers and authority conferred by law upon peace officers listed in Section 830.3 of the Penal Code in the performance of their duties.

SEC. 31. Section 11106 of the Health and Safety Code is amended to read:

11106. The Attorney General may expend such sums as he deems necessary in the purchase of drugs for evidence and in the employment of operators to obtain evidence.

The sums so expended shall be repaid to the officer making the expenditures upon claims approved by the Attorney General and subject to post audit by the Department of Finance. The claims when approved shall be paid out of the funds appropriated or made available by law for the support or use of the Department of Justice.

SEC. 32. Section 11166.05 of the Health and Safety Code is amended to read:

11166.05. Prescription blanks shall be issued by the Department of Justice in serially numbered groups of 100 forms each in triplicate, and shall be furnished free of cost to any person authorized to write a prescription, and such prescription blanks shall not be transferable. Any person possessing any such prescription blank otherwise than as herein provided is guilty of a misdemeanor.

SEC. 33. Section 11166.08 of the Health and Safety Code is amended to read:

11166.08. No person shall issue a prescription other than on the official prescription form issued by the Department of Justice, and no person shall fill any prescription other than on the official prescription form issued by the Department of Justice, except that in the case of an epidemic or a sudden or unforeseen accident or calamity a prescriber may issue a prescription upon a form other than the official prescription form issued by the Department of Justice, where failure to issue such prescription might result in loss of life or intense suffering, but such a prescription shall have indorsed thereon by the prescriber a statement concerning the accident, calamity, or circumstances constituting the emergency because of which the unofficial blank is used.

SEC. 34. Section 11166.10 of the Health and Safety Code is amended to read:

11166.10. The prescription book containing the prescriber's copies of prescriptions issued shall be retained by the prescriber which shall be preserved for two years and shall at all times be open to inspection by agents of the Department of Justice, special agents of the Board of Medical Examiners, inspectors of the Board of Osteopathic Examiners, and inspectors of the Board of Pharmacy.

SEC. 35. Section 11166.11 of the Health and Safety Code is amended to read:

11166.11. The original and one copy of the prescription shall be delivered to the person filling the prescription. The duplicate shall be properly endorsed by the pharmacist filling the prescription at the time such prescription is filled. The original shall be retained by

the person filling the prescription, and at the end of each month in which the prescription is filled, the duplicate shall be returned to the Department of Justice.

SEC. 36. Section 11177 of the Health and Safety Code is amended to read:

11177. A narcotic prescription on file shall at all times be open to inspection by the prescriber, and properly authorized officers of the law, including all agents of the Department of Justice and inspectors of the Board of Pharmacy.

SEC. 37. Section 11226 of the Health and Safety Code is amended to read:

11226. The record shall be preserved for two years and shall at all times be open to inspection by agents of the Department of Justice and inspectors of the Board of Pharmacy.

Every person who violates any provision of this section is guilty of a misdemeanor.

SEC. 38. Section 11228 of the Health and Safety Code is amended to read:

11228. Any record required by this division shall be open at all times to inspection by properly authorized officers of the law, including agents of the Department of Justice and inspectors of the Board of Pharmacy. It is unlawful to refuse to permit, or to obstruct such inspection.

SEC. 39. Section 11250 of the Health and Safety Code is amended to read:

11250. Whenever the pharmacist's copy of a narcotic prescription is removed by a peace officer, agent of the Department of Justice, or inspector of the Board of Pharmacy, for the purpose of investigation or as evidence, the officer, agent or inspector shall give to the pharmacist a receipt in lieu thereof.

SEC. 40. Section 11331.5 of the Health and Safety Code is amended to read:

11331.5. In order to provide a supply of narcotics as may be necessary to handle emergency cases, any hospital which does not employ a resident pharmacist and which is under the supervision of a licensed physician, may purchase narcotics on federal order forms for said institution, under the name of said hospital, said supply to be made available to a registered nurse for administration to patients in emergency cases, upon direction of a licensed physician.

A report showing the kind and amount of narcotics purchased on the federal order form shall be forwarded, by registered mail, to the Department of Justice, at the time such narcotics are purchased and a record shall be kept of such rush, emergency administration of narcotics, including the amount given, the type, the date given, and the name and address of the person to whom administered.

SEC. 41. Section 11332 of the Health and Safety Code is amended to read:

11332. Persons registered and taxed under Section 4722 of Title 26, United States Code, and lawfully entitled to obtain and use in a

laboratory needed narcotic drugs for the purpose of research, instruction or analysis, may lawfully obtain and use for such purposes lophophora substances as defined in Section 11001, upon registration with, and obtaining written approval from, the Department of Justice. Complete records of receipts, stocks at hand and use of these substances shall be kept. These records shall at all times be open to inspection by any authorized agent of the Department of Justice.

SEC. 42. Section 11333 of the Health and Safety Code is amended to read:

11333. Persons who, under applicable federal laws or regulations, are lawfully entitled to use narcotics for the purpose of research, instruction, or analysis, may lawfully obtain and use for such purposes such substances as are defined as narcotics in Chapter 1 (commencing with Section 11000) of this division, upon registration with the Department of Justice and approval for use of such substances in bona fide research, instruction, or analysis by the Research Advisory Panel established pursuant to Sections 11655 and 11655.5.

Such research, instruction, or analysis shall be carried on only under the auspices of the head of a research project which has been approved by the Research Advisory Panel pursuant to Section 11655.5 or Section 11655.6. Complete records of receipts, stocks at hand, and use of these substances shall be kept. These records shall at all times be open to inspection by any authorized agent of the Department of Justice.

SEC. 43. Section 11395 of the Health and Safety Code is amended to read:

11395. The physician prescribing, furnishing, or administering any narcotic or methadone in the treatment of an addict for addiction shall within five days after the first treatment report by registered mail, over his signature, to the Department of Justice stating the name and address of the patient, and the name and quantities of narcotics prescribed.

The report shall state the progress of the patient under the treatment.

The physician shall in the same manner further report on the 15th day of the treatment and on the 30th day of the treatment, and thereafter shall make such further reports as are requested in writing by the Department of Justice.

SEC. 44. Section 11425 of the Health and Safety Code is amended to read:

11425. A physician prescribing or furnishing a narcotic to an habitual user shall within five days after first prescribing or furnishing the narcotic personally report in writing by registered mail, over his signature, to the Department of Justice.

The report shall contain all of the following:

(a) Name of the patient.

(b) Address of the patient.

(c) Character of the injury or ailment.

(d) Quantity and kind of narcotic used.
(e) A statement as to whether or not the patient is an addict.

SEC. 45. Section 11426 of the Health and Safety Code is amended to read:

11426. The physician shall upon request in writing from the Department of Justice furnish any additional reports upon the treatment of the user as the Department of Justice may request in writing.

SEC. 46. Section 11573 of the Health and Safety Code is amended to read:

11573. The written orders or blank forms shall always be open for inspection by any peace officer or any inspector or member of the Board of Pharmacy or any agent of the Department of Justice.

The written orders or blank forms shall be preserved for at least three years after the date of the last entry made.

SEC. 47. Section 11574 of the Health and Safety Code is amended to read:

11574. A true and correct copy of all orders, contracts, or agreements taken for narcotics shall be forwarded by registered mail to the Department of Justice within 24 hours after the taking of the order, contract, or agreement, unless the order, contract, or agreement is recorded as required under the provisions of Section 2 of an act of Congress, approved December 17, 1914, relating to the production, importation, manufacture, compounding, sale, dispensing, or giving away of opium, isonipecaine, or coca leaves, their salts, derivatives, or preparations, by a wholesale jobber, wholesaler, or manufacturer, permanently located in this state, as provided for in that section.

SEC. 48. Section 11576 of the Health and Safety Code is amended to read:

11576. Within 24 hours after any purchaser in this state gives any order to, or makes any contract or agreement for purchases from or sales by, an out-of-state wholesaler or manufacturer of any narcotics for delivery in this state, the purchaser shall forward to the Department of Justice by registered mail a true and correct copy of the order, contract, or agreement.

SEC. 49. Section 11652 of the Health and Safety Code is amended to read:

11652. The order of destruction shall contain the name of the party charged with the duty of destruction, but the judge shall turn all such evidence over to the Department of Justice for destruction.

SEC. 50. Section 11654 of the Health and Safety Code is amended to read:

11654. Narcotics and opium pipes seized under this division, now in the possession of any city or county official, or of the State Board of Pharmacy, or that may hereafter come into their possession, in which no trial was had, shall be delivered to the Department of Justice for destruction or disposition.

No narcotics or opium pipes coming into the possession of the

Department of Justice as described in this section shall be destroyed within six months from seizure.

SEC. 51. Section 11655 of the Health and Safety Code is amended to read:

11655. The Department of Justice may dispose of narcotics, other than heroin or smoking opium, by gift to the medical superintendent of state prisons or state hospitals, for medical purposes. Marijuana (Cannabis sativa), its derivatives or compounds, shall be provided by the Department of Justice to the heads of research projects which have been approved by the Research Advisory Panel pursuant to Section 11655.5.

The head of the approved research project shall personally receipt for such quantities of marijuana (Cannabis sativa) and shall make a record of their disposition. The receipt and record shall be retained by the Department of Justice. The head of the approved research project shall also, at intervals and in the manner required by the Research Advisory Panel, report the progress or conclusions of the research project.

SEC. 51.5. Section 11655.5 of the Health and Safety Code is amended to read:

11655.5. The Legislature finds that there is a need to encourage further research into the nature and effects of marijuana (Cannabis sativa) and hallucinogenic drugs and to coordinate research efforts on such subjects.

There shall be established a Research Advisory Panel which shall consist of a representative of the State Department of Public Health, a representative of the Department of Mental Hygiene, the Chairman of the Interagency Council on Drug Abuse, a representative of the California State Board of Pharmacy, a representative of the Attorney General, a representative of the University of California who shall be a pharmacologist or physician or a person holding a doctorate degree in the health sciences, and a representative of a private university in this state who shall be a phamacologist or physician or a person holding a doctorate degree in the health sciences. The Governor shall annually designate the private university represented on the panel. Members of the panel shall be appointed by the heads of the entities to be represented, and they shall serve at the pleasure of the appointing power.

The panel may hold hearings on, and in other ways study, research projects concerning marijuana (Cannabis sativa) or hallucinogenic drugs in this state. Members of the panel shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties.

The panel may approve research projects into the nature and effects of marijuana (Cannabis sativa) or hallucinogenic drugs, and shall inform the Department of Justice of the head of such approved research projects which are entitled to receive quantities of marijuana (Cannabis sativa) pursuant to Section 11655.

The panel may withdraw approval of a research project at any time, and when approval is withdrawn shall notify the head of the research project to return any quantities of marijuana (Cannabis sativa) to the Department of Justice.

The panel shall report annually to the Legislature and the Governor those research projects approved by the panel, the nature of each research project, and, where available, the conclusions of the research project.

This section shall remain in effect only until Reorganization Plan No. 1 of 1970 becomes operative and on such date is repealed.

SEC. 52. Section 11655.5 is added to the Health and Safety Code, to read:

11655.5. The Legislature finds that there is a need to encourage further research into the nature and effects of marijuana (Cannabis sativa) and hallucinogenic drugs and to coordinate research efforts on such subjects.

There shall be established a Research Advisory Panel which shall consist of a representative of the State Department of Health, the Chairman of the Interagency Council on Drug Abuse, a representative of the California State Board of Pharmacy, a representative of the Attorney General, a representative of the University of California who shall be a pharmacologist or physician or a person holding a doctorate degree in the health sciences, and a representative of a private university in this state who shall be a pharmacologist or physician or a person holding a doctorate degree in the health sciences. The Governor shall annually designate the private university represented on the panel. Members of the panel shall be appointed by the heads of the entities to be represented, and they shall serve at the pleasure of the appointing power.

The panel may hold hearings on, and in other ways study, research projects concerning marijuana (Cannabis sativa) or hallucinogenic drugs in this state. Members of the panel shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties.

The panel may approve research projects into the nature and effects of marijuana (Cannabis sativa) or hallucinogenic drugs, and shall inform the Department of Justice of the head of such approved research projects which are entitled to receive quantities of marijuana (Cannabis sativa) pursuant to Section 11655.

The panel may withdraw approval of a research project at any time, and when approval is withdrawn shall notify the head of the research project to return any quantities of marijuana (Cannabis sativa) to the Department of Justice.

The panel shall report annually to the Legislature and the Governor those research projects approved by the panel, the nature of each research project, and, where available, the conclusions of the research project.

This section shall become operative on the same date as

Reorganization Plan No. 1 of 1970 becomes operative.

SEC. 53. Section 11655.6 of the Health and Safety Code, as amended by Chapter 1567 of the Statutes of 1971, is amended to read:

11655.6. The Research Advisory Panel may hold hearings on, and in other ways study, research projects concerning the treatment of narcotic abuse.

The panel may approve research projects concerning the treatment of narcotic abuse and shall inform the Department of Justice of such approval. The panel may withdraw approval of a research project at any time and when approval is withdrawn shall so notify the Department of Justice.

The panel shall, annually and in the manner determined by the panel, report to the Legislature and the Governor those research projects approved by the panel, the nature of each research project, and where available, the conclusions of the research project.

This section shall remain in effect until the 91st day after the final adjournment of the 1976 Regular Session of the Legislature, and as of that date is repealed.

SEC. 54. Section 11656 of the Health and Safety Code is amended to read:

11656. When narcotics or opium pipes have been seized pursuant to this division and the defendant or owner has escaped from custody and is a fugitive from justice, they shall upon demand of the Department of Justice, be turned over to it for safekeeping until such time as the owner or defendant is apprehended and prosecuted for violation of this division.

SEC. 55. Section 11657 of the Health and Safety Code is amended to read:

11657. When narcotics or opium pipes have been seized pursuant to this division and the case has been disposed of by way of dismissal or otherwise than by way of conviction, they shall by order of the court, be turned over to the Department of Justice, unless the court finds that the narcotics were lawfully possessed by the defendant.

SEC. 56. Section 11680 of the Health and Safety Code is amended to read:

11680. The district attorney of the county in which any violation of this division is committed shall conduct all actions and prosecutions for the violation.

However, subject to the approval of the Attorney General, the Department of Justice may employ special counsel for that purpose, who may take complete charge of the conduct of such actions or prosecutions. The Department of Justice may fix the compensation to be paid for the service and may incur such other expense in connection with the conduct of the actions or prosecutions as it may deem necessary. No attorney employed as special counsel shall receive as compensation more than three thousand five hundred dollars ($3,500) in any one year.

SEC. 56.5. Section 11722 of the Health and Safety Code is amended to read:

11722. (a) Whenever any court in this state grants probation to a person who the court has reason to believe is or has been a user of narcotics, the court may require as a condition to probation that the probationer submit to periodic tests by a city or county health officer, or by a physician and surgeon appointed by the city or county health officer with the approval of the Department of Justice, to determine, by means of the use of synthetic opiate antinarcotic in action whether the probationer is a narcotic addict.

In any case provided for in this subdivision, the city or county health officer, or the physician and surgeon appointed by the city or county health officer with the approval of the Department of Justice, shall report the results of the tests to the probation officer.

(b) In any case in which a person is granted parole by a county parole board and the person is or has been a user of narcotics, a condition of the parole may be that the parolee undergo periodic tests as provided in subdivision (a) and that the county or city health officer, or the physician and surgeon appointed by the city or county health officer with the approval of the Department of Justice, shall report the results to the board.

(c) In any case in which any state agency grants a parole to a person who is or has been a user of narcotics, it may be a condition of the parole that the parolee undergo periodic tests as provided in subdivision (a) and that the county or city health officer, or the physician and surgeon appointed by the city or county health officer with the approval of the Department of Justice, shall report the results of the tests to such state agency.

(d) The cost of administering tests pursuant to subdivisions (a) and (b) shall be a charge against the county. The cost of administering tests pursuant to subdivision (c) shall be paid by the state.

(e) The State Department of Public Health, in conjunction with the Department of Justice, shall issue regulations governing the administering of the tests provided for in this section and providing the form of the report required by this section.

This section shall remain operative only until Reorganization Plan No. 1 of 1970 becomes operative and on such date is repealed.

SEC. 57. Section 11722 is added to the Health and Safety Code, to read:

11722. (a) Whenever any court in this state grants probation to a person who the court has reason to believe is or has been a user of narcotics, the court may require as a condition to probation that the probationer submit to periodic tests by a city or county health officer, or by a physician and surgeon appointed by the city or county health officer with the approval of the Department of Justice, to determine, by means of the use of synthetic opiate antinarcotic in action whether the probationer is a narcotic addict.

In any case provided for in this subdivision, the city or county health officer, or the physician and surgeon appointed by the city or county health officer with the approval of the Department of Justice,

shall report the results of the tests to the probation officer.

(b) In any case in which a person is granted parole by a county parole board and the person is or has been a user of narcotics, a condition of the parole may be that the parolee undergo periodic tests as provided in subdivision (a) and that the county or city health officer, or the physician and surgeon appointed by the city or county health officer with the approval of the Department of Justice, shall report the results to the board.

(c) In any case in which any state agency grants a parole to a person who is or has been a user of narcotics, it may be a condition of the parole that the parolee undergo periodic tests as provided in subdivision (a) and that the county or city health officer, or the physician and surgeon appointed by the city or county health officer with the approval of the Department of Justice, shall report the results of the tests to such state agency.

(d) The cost of administering tests pursuant to subdivisions (a) and (b) shall be a charge against the county. The cost of administering tests pursuant to subdivision (c) shall be paid by the state.

(e) The State Department of Health, in conjunction with the Department of Justice, shall issue regulations governing the administering of the tests provided for in this section and providing the form of the report required by this section.

This section shall become operative on the same date as Reorganization Plan No. 1 of 1970 becomes operative.

SEC. 58. Section 11851 of the Health and Safety Code is amended to read:

11851. Any person who, after the effective date of this section, is discharged or paroled from a jail, prison, school, road camp, or other institution where he was confined because of the commission or attempt to commit one of the offenses described in Section 11850 shall, prior to such discharge, parole, or release, be informed of his duty to register under that section by the official in charge of the place of confinement and the official shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him. The official in charge of the place of confinement shall obtain the address where the person expects to reside upon his discharge, parole, or release and shall report such address to the Department of Justice. The official in charge of the place of confinement shall give one copy of the form to the person, and shall send two copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his discharge, parole, or release.

SEC. 59. Section 11852 of the Health and Safety Code is amended to read:

11852. Any person who, after the effective date of this section, is convicted in the State of California of the commission or attempt to

commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to such release or discharge, be informed of his duty to register under Section 11850 by the court in which he has been convicted and the court shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him. The court shall obtain the address where the person expects to reside upon his release or discharge and shall report within three days such address to the Department of Justice. The court shall give one copy of the form to the person, and shall send two copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his discharge, parole, or release.

SEC. 60. Section 11853 of the Health and Safety Code is amended to read:

11853. The registration required by Section 11850 shall consist of (a) a statement in writing signed by such person, giving such information as may be required by the Department of Justice, and (b) the fingerprints and photograph of such person. Within three days thereafter the registering law enforcement agency shall forward such statement, fingerprints and photograph to the Department of Justice.

If any person required to register hereunder changes his residence address he shall inform, in writing within 10 days, the law enforcement agency with whom he last registered of his new address. The law enforcement agency shall, within three days after receipt of such information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

All registration requirements set forth in this article shall terminate five years after the discharge from prison, release from jail or termination of probation or parole of the person convicted. Nothing in this section shall be construed to conflict with the provisions of Section 1203.4 of the Penal Code concerning termination of probation and release from penalties and disabilities of probation.

Any person required to register under the provisions of this section who shall knowingly violate any of the provisions thereof is guilty of a misdemeanor.

The statements, photographs and fingerprints herein required shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

SEC. 61. Section 11903 of the Health and Safety Code is amended to read:

11903. (a) "Prescription" means an order given individually for the person for whom prescribed, directly from the prescriber to the furnisher or indirectly by means of an order signed by the prescriber

and shall bear the name and address of the prescriber, his license classification, the name and address of patient, name and quantity of drug or drugs prescribed, directions for use and the date of issue.

(b) "Board" means the California State Board of Pharmacy.

(c) "Physician," "dentist," "podiatrist," "pharmacist," and "veterinarian" mean persons who are licensed to practice their respective professions in this state.

(d) "Customs broker" means a person in this state who is authorized to act as a broker for any of the following:

(1) A person in this state who is licensed to sell, distribute, or otherwise possess restricted dangerous drugs.

(2) A person in any other state who ships restricted dangerous drugs into this state.

(3) A person in this state or any other state who ships or transfers restricted dangerous drugs through this state.

(e) "Manufacturer" has the same meaning as provided in Section 4034 of the Business and Professions Code.

(f) "Pharmacy" has the same meaning as provided in Section 4035 of the Business and Professions Code.

(g) "Wholesaler" has the same meaning as provided in Section 4038 of the Business and Professions Code.

(h) "Dispense" has the same meaning as provided in Section 4049 of the Business and Professions Code.

(i) "Furnish" has the same meaning as provided in Section 4048.5 of the Business and Professions Code.

SEC. 62. Section 11925.1 of the Health and Safety Code is amended to read:

11925.1. All restricted dangerous drugs that have been seized under this division shall, by order of the court upon the convict ion of the owner or defendant, be turned over to the Department of Justice for destruction or disposition. Restricted dangerous drugs coming into the possession of the Department of Justice pursuant to this section shall not be destroyed until at least six months after their seizure.

SEC. 63. Section 11925.2 of the Health and Safety Code is amended to read:

11925.2. Restricted dangerous drugs seized under this division, now in the possession of any city or county official, or of the board, or that may hereafter come into their possession, in which no trial was had, shall be delivered to the Department of Justice for destruction or disposition.

SEC. 64. Section 11925.3 of the Health and Safety Code is amended to read:

11925.3. When restricted dangerous drugs have been seized pursuant to this division and the defendant or owner has escaped from custody and is a fugitive from justice, they shall upon demand of the Department of Justice, be turned over to it for safekeeping until such time as the owner or defendant is apprehended and prosecuted for violation of this division.

SEC. 65. Section 11925.4 of the Health and Safety Code is amended to read:

11925.4. When restricted dangerous drugs have been seized pursuant to this division and the case has been disposed of by way of dismissal or otherwise than by way of conviction, they shall by order of the court, be turned over to the Department of Justice for destruction or disposition, unless the court finds that the restricted dangerous drugs were lawfully possessed by the defendant.

SEC. 66. Section 3212.7 of the Labor Code is amended to read:

3212.7. In the case of an employee in the Department of Justice falling within the "state safety" class, when any such individual is employed under civil service upon a regular, full-time salary, the term "injury," as used in this division, includes heart trouble or hernia or pneumonia or tuberculosis which develops or manifests itself during the period while such individual is in the service of the Department of Justice. The compensation which is awarded for any such injury shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits as provided by the provisions of this division.

Such heart trouble, hernia, pneumonia, or tuberculosis so developing or manifesting itself shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence but unless so controverted, the appeals board is bound to find in accordance with it.

Such heart trouble, hernia, pneumonia, or tuberculosis developing or manifesting itself in such cases shall in no case be attributed to any disease existing prior to such development or manifestation.

SEC. 67. Section 4800 of the Labor Code, as amended by Chapter 1089 of the Statutes of 1971, is amended to read:

4800. Whenever any member of the California Highway Patrol or any member of the Department of Justice falling within the "state safety" class is disabled by injury arising out of and in the course of his duties, he shall become entitled, regardless of his period of service with the patrol, or Department of Justice to leave of absence while so disabled without loss of salary, in lieu of disability payments under this chapter, for a period of not exceeding one year. This section shall apply only to members of the California Highway Patrol and the Department of Justice whose principal duties consist of active law enforcement and shall not apply to persons employed in the Department of the California Highway Patrol or the Department of Justice whose principal duties are those of telephone operator, clerk, stenographer, machinist, mechanic or otherwise clearly not falling within the scope of active law enforcement service, even though such person is subject to occasional call or is occasionally called upon to perform duties within the scope of active law enforcement service.

This section shall apply to harbor policemen employed by the San Francisco Port Commission who are described in Section 20017.76 of the Government Code.

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SEC. 68. Section 4802 of the Labor Code, as amended by Chapter 1089 of the Statutes of 1971, is amended to read:

4802. Any such member of the California Highway Patrol or Department of Justice, or any such harbor policeman, so disabled is entitled from the date of injury and regardless of retirement under the Public Employees' Retirement System, to the medical, surgical and hospital benefits prescribed by this division as part of the compensation for persons injured in the course of and arising out of their employment, at the expense of the Department of the California Highway Patrol, the Department of Justice, or the San Francisco Port Commission, as the case may be, and such expense shall be charged upon the fund out of which the compensation of the member is paid.

SEC. 69. Section 4803 of the Labor Code, as amended by Chapter 1089 of the Statutes of 1971, is amended to read:

4803. Whenever such disability of such member of the California Highway Patrol, or Department of Justice, or of such harbor policeman, continues for a period beyond one year, such member or harbor policeman shall thereafter be subject, as to disability indemnity, to the provisions of this division other than Section 4800, which refers to temporary disability only, during the remainder of the disability, except that such compensation shall be paid out of funds available for the support of the Department of the California Highway Patrol, the Department of Justice, or the San Francisco Port Commission, as the case may be, and the leave of absence shall continue.

SEC. 70. Section 290 of the Penal Code is amended to read:

290. Any person who, since the first day of July, 1944, has been or is hereafter convicted in the State of California of the offense of assault with intent to commit rape or the infamous crime against nature, under Section 220, or of any offense defined in Sections 266, 267, 268, 285, 286, 288, 288a, subdivision 1 of Section 647a, subdivision 2 or 3 of Section 261, subdivision (a) or (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272; or any person who since such date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since such date or at any time hereafter is discharged or paroled from a penal institution where he was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who since such date or at any time hereafter is determined to be a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who has been since such date or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses shall within 30 days after the effective date of this section or within 30 days of his coming into any county or city, or city and

county in which he resides or is temporarily domiciled for such length of time register with the chief of police of the city in which he resides or the sheriff of the county if he resides in an unincorporated area.

Any person who, after the first day of August, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he was confined because of the commission or attempt to commit one of the above-mentioned offenses or is released from a state hospital to which he was committed as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code shall, prior to such discharge, parole, or release, be informed of his duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his discharge, parole, or release and shall report such address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send two copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his discharge, parole, or release.

Any person who after the first day of August, 1950, is convicted in the State of California of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to such release or discharge, be informed of his duty to register under this section by the court in which he has been convicted and the court shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him. The court shall obtain the address where the person expects to reside upon his release or discharge and shall report within three days such address to the Department of Justice. The court shall give one copy of the form to the person, and shall send two copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his discharge, parole, or release.

Such registration shall consist of (a) a statement in writing signed by such person, giving such information as may be required by the Department of Justice, and (b) the fingerprints and photograph of such person. Within three days thereafter the registering law enforcement agency shall forward such statement, fingerprints and photograph to the Department of Justice.

If any person required to register hereunder changes his residence

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address he shall inform, in writing within 10 days, the law enforcement agency with whom he last registered of his new address. The law enforcement agency shall, within three days after receipt of such information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

Any person required to register under the provisions of this section who shall violate any of the provisions thereof is guilty of a misdemeanor.

The statements, photographs and fingerprints herein required shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

SEC. 71. Section 830.3 of the Penal Code, as amended by Chapter 1695 of the Statutes of 1971, is amended to read:

830.3. (a) The Deputy Director, Assistant Directors, Investigative Chiefs and Assistant Chiefs, special agents of the Department of Justice, and such investigators who are so designated by the Attorney General, are peace officers.

The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed within the state.

(b) Any inspector or investigator regularly employed and paid as such in the office of a district attorney is a peace officer.

The authority of any such peace officer extends to any place in the state:

(1) As to any public offense committed, or which there is probable cause to believe has been committed, within the county which employs him; or

(2) Where he has the prior consent of the chief of police, or person authorized by him to give such consent, if the place is within a city or of the sheriff, or person authorized by him to give such consent, if the place is within a county; or

(3) As to any public offense committed or which there is probable cause to believe has been committed in his presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense.

(c) The Director of the Department of Alcoholic Beverage Control and persons employed by such department for the enforcement of the provisions of Division 9 (commencing with Section 23000) of the Business and Professions Code are peace officers; provided, that the primary duty of any such peace officer 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. Any such peace officer is further authorized to enforce any penal provision of law while, in the course of his employment, he is in, on, or about any premises licensed pursuant to the Alcoholic Beverage Control Act.

(d) The Chief and investigators of the Division of Investigation of

the Department of Consumer Affairs are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(e) Members of the Wildlife Protection Branch of the Department of Fish and Game deputized pursuant to Section 856 of the Fish and Game Code, deputies appointed pursuant to Section 851 of such code, and county fish and game wardens appointed pursuant to Section 875 of such code are peace officers; provided, that the primary duty of deputized members of the Wildlife Protection Branch, and the exclusive duty, except as provided in Section 1509.7 of the Military and Veterans Code, of any other peace officer listed in this subdivision, shall be the enforcement of the provisions of the Fish and Game Code, as such duties are set forth in Sections 856, 851 and 878, respectively, of such code.

(f) The State Forester and such employees or classes of employees of the Division of Forestry of the Department of Conservation and voluntary fire wardens as are designated by him pursuant to Section 4156 of the Public Resources Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of such code.

(g) Officers and employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of such code.

(h) The secretary, chief investigator, and racetrack investigators of the California Horse Racing Board are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the provisions of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code. Any such peace officer is further authorized to enforce any penal provision of law while, in the course of his employment, he is in, on, or about any horseracing enclosure licensed pursuant to the Horse Racing Law.

(i) Police officers of a regional park district, appointed or employed pursuant to Section 5561 of the Public Resources Code, and officers and employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of such code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as such duties are set forth in Sections 5561 and 5008, respectively, of such code.

(j) Policemen of the San Francisco Port Authority are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the laws relating to the San Francisco Harbor, as that duty is set forth in Part 1 (commencing with Section 1690) of Division 6 of the Harbors and Navigation Code.

(k) The State Fire Marshal and assistant or deputy state fire

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marshals appointed pursuant to Section 13103 of the Health and Safety Code are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 13104 of such code.

(*l*) Members of an arson-investigating unit, regulary employed and paid as such, of a fire protection agency of the state, of a county, city, or district, and members of a fire department of a local agency regularly paid and employed as such, are peace officers; provided, that the primary duty of arson investigators shall be the detection and apprehension of persons who have violated or who are suspected of having violated any fire law, and the exclusive duty, except as provided in Section 1509.7 of the Military and Veterans Code, of fire department members other than arson investigators when acting as peace officers shall be the enforcement of laws relating to fire prevention and fire suppression. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, members of fire departments other than arson investigators are not peace officers for purposes of such sections except when designated as peace officers for such purposes by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution.

(m) The chief and such inspectors of the Bureau of Food and Drug Inspections as are designated by him pursuant to subdivision (a) of Section 216 of the Health and Safety Code are peace officers; provided, that the exclusive duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of such code.

(n) Persons designated by a local agency as park rangers, and regularly employed and paid as such, are peace officers; provided, that the primary duty of any such peace officer shall be the protection of park property and preservation of the peace therein. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, such park rangers are not peace officers for purposes of such sections except when designated as peace officers for such purposes by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution.

(o) Members of a community college police department appointed pursuant to Section 25429 of the Education Code are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Section 25429 of the Education Code.

(p) All investigators of the Division of Labor Law Enforcement, as designated by the Labor Commissioner, are peace officers; provided that the primary duty of any such peace officer shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(q) The authority of any peace officer listed in subdivisions (c) through (p), inclusive, extends to any place in the state; provided, that except as otherwise provided in this section, Section 830.6, or Section 1509.7 of the Military and Veterans Code, any such peace

officer shall be deemed a peace officer only for purposes of his primary duty, and shall not act as a peace officer in enforcing any other law except:

(1) When in pursuit of any offender or suspected offender; or

(2) To make arrests for crimes committed, or which there is probable cause to believe have been committed, in his presence while he is in the course of his employment; or

(3) When, while in uniform, such officer is requested, as a peace officer, to render such assistance as is appropriate under the circumstances to the person making such request, or to act upon his complaint, in the event that no peace officer otherwise authorized to act in such circumstances is apparently and immediately available and capable of rendering such assistance or taking such action.

SEC. 72. Section 2082 of the Penal Code is amended to read:

2082. The Director of Corrections shall within 30 days after receiving persons convicted of crime and sentenced to serve terms in the respective prisons under the jurisdiction of the Director of Corrections, except those cases under juvenile court commitment, furnish to the Department of Justice two copies of a report containing the fingerprints, photographs and descriptions, including complete details of marks, scars, deformities or other peculiarities, and a statement of the nature of the offense for which the person is committed. One copy shall be transmitted by the Department of Justice to the Federal Bureau of Investigation. He shall notify the Department of Justice whenever any of such prisoners dies, escapes, is discharged, released on parole, transferred to or returned from a state hospital, taken out to court or returned therefrom, or whose custody is terminated in any other manner. The Director of Corrections may furnish to the Department of Justice such other fingerprints, photographs and information as may be useful for law enforcement purposes. Any expenditures incurred in carrying out the provisions of this section shall be paid for out of the appropriation made for the support of state's prisons and/or the Department of Corrections.

SEC. 73. Section 4852.12 of the Penal Code is amended to read:

4852.12. In any proceeding for the ascertainment and declaration of the fact of rehabilitation under this chapter, the court, upon the filing of the application for petition of rehabilitation, shall require from the district attorney an investigation of the residence of the petitioner, the criminal record of the petitioner as shown by the records of the Department of Justice, and the investigation of any representation made to the court by the applicant, and the district attorney shall file with the court a full and complete report of the results of said investigations, and shall require from the district attorney and the chief of police or sheriff having jurisdiction as provided in subdivision (a) of Section 4852.02 written reports setting forth all matters within their knowledge relating to the conduct of the petitioner during his period of rehabilitation, including all matters mentioned in Section 4852.11.

SEC. 74. Section 4852.14 of the Penal Code is amended to read:
4852.14. The clerk of the court shall immediately transmit certified copies of the certificate of rehabilitation to the Governor, to the Adult Authority and the Department of Justice, and, in the case of persons twice convicted of a felony, to the Supreme Court.

SEC. 75. Section 4852.17 of the Penal Code is amended to read:
4852.17. Whenever a person is issued a certificate of rehabilitation or granted a pardon from the Governor under this chapter, the fact shall be immediately reported to the Department of Justice by the court, Governor, officer, or governmental agency by whose official action the certificate is issued or the pardon granted. The Department of Justice shall immediately record the facts so reported on the former criminal record of the person, and transmit such facts to the Federal Bureau of Investigation at Washington, D.C. When the criminal record is thereafter reported by said department, it shall also report the fact that the person has received a certificate of rehabilitation, or pardon, or both.

Whenever a person is granted a full and unconditional pardon by the Governor, based upon a certificate of rehabilitation, the pardon shall entitle the person to exercise thereafter all civil and political rights of citizenship, including but not limited to: (1) the right to vote; (2) the right to own, possess, and keep any type of firearm that may lawfully be owned and possessed by other citizens; except that this right shall not be restored, and Sections 12001 and 12021 of the Penal Code shall apply, if the person was ever convicted of a felony involving the use of a dangerous weapon.

SEC. 76. The heading of Chapter 1 (commencing with Section 11000) of Title 1 of Part 4 of the Penal Code is amended to read:

CHAPTER 1. INVESTIGATION, IDENTIFICATION, AND INFORMATION RESPONSIBILITIES OF THE DEPARTMENT OF JUSTICE

SEC. 77. Section 11000 of the Penal Code is repealed.
SEC. 78. Section 11005 of the Penal Code is repealed.
SEC. 79. Section 11006 of the Penal Code is amended to read:
11006. The Attorney General shall appoint such agents and other employees as he deems necessary to carry out the provisions of this chapter.

SEC. 79.5. Section 11007 of the Penal Code is repealed.
SEC. 80. Section 11050 of the Penal Code is amended to read:
11050. In any crime of statewide importance, the Attorney General may, upon the request of any district attorney, sheriff or chief of police, assign to such officer so requesting, an investigator or investigators for the investigation or detection of crimes, and the apprehension or prosecution of criminals.

SEC. 81. Section 11050.5 of the Penal Code is amended to read:
11050.5. The Attorney General may, upon the request of any district attorney, sheriff, chief of police, or other local, state or federal

law enforcement official, make available to such official so requesting, the department's laboratory facilities and personnel and the department's technical experts, including but not limited to such personnel as fingerprint examiners, criminalists, document examiners and intelligence specialists for the purpose of assisting in the investigation or detection of crimes and the apprehension or prosecution of criminals.

SEC. 82. Section 11051 of the Penal Code is amended to read:

11051. The Department of Justice shall perform such other duties in the investigation, detection, apprehension, prosecution or suppression of crimes as may be assigned by the Attorney General in the performance of his duties under Article V, Section 21 of the Constitution.

SEC. 82.1. Section 11102 of the Penal Code is amended to read:

11102. The department may use the following systems of identification: the Bertillon, the fingerprint system, and any system of measurement that may be adopted by law in the various penal institutions of the state.

SEC. 82.2. Section 11105 of the Penal Code is amended to read:

11105. (a) The Attorney General shall furnish, upon application in accordance with the provisions of subdivision (b) of this section, copies of all summary criminal history information pertaining to the identification of any person, such as a plate, photograph, outline picture, description, measurement, or any data about such person of which there is a record in the office of the department.

(b) Such information shall be furnished to all peace officers, district attorneys, probation officers, and courts of the state, to United States officers or officers of other states, territories, or possessions of the United States, or peace officers of other countries duly authorized by the Attorney General to receive the same, and to any public defender or attorney representing such person in proceedings upon a petition for certificate of rehabilitation and pardon pursuant to Section 4852.08, upon application in writing accompanied by a certificate signed by the peace officer, public defender, or attorney, stating that the information applied for is necessary for the due administration of the laws, and not for the purpose of assisting a private citizen in carrying on his personal interests or in maliciously or uselessly harassing, degrading or humiliating any person.

(c) Such information shall not be furnished to any persons other than those listed in subdivision (b) of this section or as provided by law; provided, that such information may be furnished to any state agency, officer, or official when needed for the performance of such agency's, officer's, or official's functions.

(d) Whenever a request for information pertains to a person whose fingerprints are on file with the department and whose record contains no reference to criminal activity, and the information requested is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for

information, if any, may be stamped "No criminal record" and returned to the submitting agency.

(e) Whenever information furnished pursuant to this section is to be used for employment, licensing, or certification purposes, the Department of Justice shall charge the requesting agency a fee which it determines to be sufficient to reimburse the department for the cost of furnishing the information, provided that no fee shall be charged a public law enforcement agency for records furnished to assist it in employing, licensing, or certifying a person who is applying for employment with the agency as a peace officer or criminal investigator. Any state agency required to pay a fee to the Department of Justice for information received under this section may charge its applicants a fee sufficient to reimburse the agency for such expense. All moneys received by the department pursuant to this section, Section 12054 of the Penal Code, and Section 13588 of the Education Code are hereby appropriated, without regard to fiscal years, for the support of the Department of Justice in addition to such other funds as may be appropriated therefor by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints shall take priority over the processing of applicant's fingerprints.

SEC. 82.3. Section 11107 of the Penal Code is amended to read:

11107. Each sheriff, chief of police and city marshal shall furnish to the department daily reports on standard forms to be prepared by the department listing all violations of Sections 314, 647a, subdivision (a) or (d) of Section 647, and any offense involving lewd and lascivious conduct under Section 272, and all felonies committed in his jurisdiction, describing the nature and character and noting all peculiar circumstances of each such crime together with any additional or supplemental data or information including all statements and conversations of persons arrested, and listing any crime theretofore reported which may be of aid in the investigation of such crime and the apprehension and conviction of the perpetrators thereof.

SEC. 83. Section 11110 of the Penal Code is amended to read:

11110. The Department of Justice shall maintain records of all reports of suspected infliction of physical injury upon a minor by other than accidental means and reports of arrests for, and convictions of, violation of Section 273a. On receipt from a city police department, sheriff or district attorney of a copy of a report of suspected infliction of physical injury upon a minor by other than accidental means received from a physician and surgeon, dentist, resident, intern, chiropractor, religious practitioner, registered nurse employed by a public health agency, school, or school district, director of a county welfare department, or any superintendent of schools of any public or private school system or any principal of any public or private school, the department shall transmit to the city police department, sheriff or district attorney, information detailing all previous reports of suspected infliction of physical injury upon the

same minor or another minor in the same family by other than accidental means and reports of arrests for, and convictions of violation of Section 273a, concerning the same minor or another minor in the same family.

The department may adopt rules governing recordkeeping and reporting under Section 11161.5.

SEC. 83.5. Section 11113 of the Penal Code is amended to read:

11113. Each coroner shall furnish the Department of Justice promptly with copies of fingerprints on standardized eight-inch by eight-inch cards, and descriptions and other identifying data, including date and place of death, of all deceased persons whose deaths are in classifications requiring inquiry by the coroner. When it is not physically possible to furnish prints of the 10 fingers, prints or partial prints of any fingers, with other identifying data, shall be forwarded by the coroner to the department.

In all cases where there is a criminal record on file in the department for the decedent, the department shall notify the Federal Bureau of Investigation and each California sheriff and chief of police, in whose jurisdiction the decedent has been arrested, of the date and place of death of decedent.

SEC. 84. Section 11115 of the Penal Code is amended to read:

11115. In any case in which a sheriff, police department or other law enforcement agency makes an arrest and transmits a report of the arrest to the Department of Justice or to the Federal Bureau of Investigation, it shall be the duty of such law enforcement agency to furnish a disposition report to such agencies whenever the arrested person is transferred to the custody of another agency or is released without having a complaint or accusation filed with a court.

If either of the following dispositions is made, the disposition report shall so state:

(a) "Arrested for intoxication and released," when the arrested party is released pursuant to paragraph (2) of subdivision (b) of Section 849.

(b) "Detention only," when the detained party is released pursuant to paragraph (1) of subdivision (b) of Section 849. In such cases the report shall state the specific reason for such release, indicating that there was no ground for making a criminal complaint because (1) further investigation exonerated the arrested party, (2) the complainant withdrew the complaint, (3) further investigation appeared necessary before prosecution could be initiated, (4) the ascertainable evidence as insufficient to proceed further, (5) the admissible or adducible evidence was insufficient to proceed further, or (6) other appropriate explanation for release.

When a complaint or accusation has been filed with a court against such an arrested person, the law enforcement agency having primary jurisdiction to investigate the offense alleged therein shall receive a disposition report of that case from the appropriate court and shall transmit a copy of the disposition report to all the bureaus to which arrest data has been furnished.

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SEC. 85. Section 11116 of the Penal Code is amended to read:

11116. Whenever a criminal complaint or accusation is filed in any superior, municipal or justice court, the clerk, or, if there be no clerk, the judge of that court shall furnish a disposition report of such case to the sheriff, police department or other law enforcement agency primarily responsible for the investigation of the crime alleged in a form prescribed or approved by the Department of Justice.

The disposition report shall state one or more of the following, as appropriate:

(a) "Dismissal in furtherance of justice, pursuant to Section 1385 of the Penal Code." In addition to this disposition label, the court shall set forth the particular reasons for the dismissal as stated in its order entered upon the minutes.

(b) "Case compromised; defendant discharged because restitution or other satisfaction was made to the injured person, pursuant to Sections 1377 and 1378 of the Penal Code."

(c) "Court found insufficient cause to believe defendant guilty of a public offense; defendant discharged without trial pursuant to Section 871 of the Penal Code."

(d) "Dismissal due to delay; action against defendant dismissed because the information was not filed or the action was not brought to trial within the time allowed by Section 1381, 1381.5, or 1382 of the Penal Code."

(e) "Accusation set aside pursuant to Section 995 of the Penal Code." In addition to this disposition label, the court shall set forth the particular reasons for the disposition.

(f) "Defective accusation; defendant discharged pursuant to Section 1008 of the Penal Code," when the action is dismissed pursuant to that section after demurrer is sustained, because no amendment of the accusatory pleading is permitted or amendment is not made or filed within the time allowed.

(g) "Defendant became a witness for the people and was discharged pursuant to Section 1099 of the Penal Code."

(h) "Defendant discharged at trial because of insufficient evidence, in order to become a witness for his codefendant pursuant to Section 1100 of the Penal Code."

(i) "Proceedings suspended; defendant found presently insane and committed to state hospital pursuant to Sections 1367 to 1372 of the Penal Code." If defendant later becomes sane and is legally discharged pursuant to Section 1372, his disposition report shall so state.

(j) "Convicted of (state offense)." The disposition report shall state whether defendant was convicted on plea of guilty, on plea of nolo contendere, by jury verdict, or by court finding and shall specify the sentence imposed, including probation granted, suspension of sentence, imposition of sentence withheld, or fine imposed, and if fine was paid.

(k) "Acquitted of (state offense)," when a general "not guilty"

verdict or finding is rendered.

(*l*) "Not guilty by reason of insanity," when verdict or finding is that defendant was insane at the time the offense was committed.

(m) "Acquitted; proof at trial did not match accusation," when defendant is acquitted by reason of variance between charge and proof pursuant to Section 1151.

(n) "Acquitted; previously in jeopardy," when defendant is acquitted on a plea of former conviction or acquittal or once in jeopardy pursuant to Section 1151.

(o) "Judgment arrested; defendant discharged," when the court finds defects in the accusatory pleading pursuant to Sections 1185 to 1187, and defendant is released pursuant to Section 1188.

(p) "Judgment arrested; defendant recommitted," when the court finds defects in the accusatory pleading pursuant to Sections 1185 to 1187, and defendant is recommitted to answer a new indictment or information pursuant to Section 1188.

(q) "Mistrial; defendant discharged." In addition to this disposition label, the court shall set forth the particular reasons for its declaration of a mistrial.

(r) "Mistrial; defendant recommitted." In addition to this disposition label, the court shall set forth the particular reasons for its declaration of a mistrial.

(s) Any other disposition by which the case was terminated. In addition to the disposition label, the court shall set forth the particular reasons for the disposition.

Whenever a court shall dismiss the accusation or information against a defendant under the provisions of Section 1203.4 of this code, and whenever a court shall order the record of a minor sealed under the provisions of Section 851.7 or Section 1203.45 of this code, the clerk, or, if there be no clerk, the judge of that court shall furnish a report of such proceedings to the Department of Justice and shall include therein such information as may be required by said department.

SEC. 86. Section 11117 of the Penal Code is amended to read:

11117. The Department of Justice shall prescribe and furnish the procedures and forms to be used for the disposition reports required in this article. The department shall add the disposition reports received to all appropriate criminal records.

The disposition reports required in this article shall be forwarded to the department and the Federal Bureau of Investigation within 30 days after the release of the arrested or detained person or the termination of court proceedings.

Neither the disposition reports nor the disposition labels required in this article shall be admissible in evidence in any civil action.

SEC. 86.1. Section 11120 of the Penal Code, as added by Chapter 1439 of the Statutes of 1971, is amended to read:

11120. As used in this article, "record" with respect to any person means the master record sheet maintained under such person's name by the Department of Justice, and which is commonly known

as "arrest record," "criminal record sheet," or "rap sheet." "Record" does not include any other records of the department.

SEC. 86.2. Section 11122 of the Penal Code, as added by Chapter 1439 of the Statutes of 1971, is amended to read:

11122. Any person desiring to examine a record relating to himself shall obtain from the chief of police of the city of his residence, or, if not a resident of a city, from the sheriff of his county of residence, or from the office of the department, an application form furnished by the department which shall require his fingerprints in addition to such other information as the department shall specify. The city or county, as applicable, may fix a reasonable fee for affixing the applicant's fingerprints to the form, and shall retain such fee for deposit in its treasury.

SEC. 86.3. Section 11123 of the Penal Code, as added by Chapter 1439 of the Statutes of 1971, is amended to read:

11123. The applicant shall submit the completed application directly to the department. The application shall be accompanied by a fee of five dollars ($5) or such higher amount, not to exceed ten dollars ($10) that the department determines equals the costs of processing the application and making a record available for examination. All fees received by the department under this section are hereby appropriated without regard to fiscal years for the support of the Department of Justice in addition to such other funds as may be appropriated therefor by the Legislature.

SEC. 86.4. Section 11124 of the Penal Code, as added by Chapter 1439 of the Statutes of 1971, is amended to read:

11124. When an application is received by the department, the department shall determine whether a record pertaining to the applicant is maintained. If such record is maintained, the department shall inform the applicant by mail of the existence of the record and shall specify a time when the record may be examined at a suitable facility of the department. Upon verification of his identity, the applicant shall be allowed to examine the record pertaining to him, or a true copy thereof, for a period not to exceed one hour. The applicant may not retain or reproduce the record, but he may make a written summary or notes in his own handwriting.

SEC. 86.5. Section 11125 of the Penal Code, as added by Chapter 1439 of the Statutes of 1971, is amended to read:

11125. If the applicant is imprisoned in the state prison or confined in the county jail, his application shall be through the office in charge of records of the prison or jail. Such offices shall follow the provisions of this article applicable to cities and counties with respect to applications and fees. When an application is transmitted to the department pursuant to this section, the department shall make arrangements for the applicant to examine the record at his place of confinement. In all other respects, the provisions of Section 11124 shall govern the examination of the record.

SEC. 86.6. Section 11126 of the Penal Code, as added by Chapter 1439 of the Statutes of 1971, is amended to read:

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11126. (a) If the applicant desires to question the accuracy or completeness of any matter contained in the record, he may submit a written request, to the department in a form established by it. The request shall include a statement of the alleged inaccuracy or incompleteness in the record, and specify any proof or corroboration available. Upon receipt of such request, the department shall forward it to the person or agency which furnished the questioned information. Such person or agency shall, within 30 days of receipt of such written request for clarification, review its information and forward to the department the results of such review.

(b) If such agency concurs in the allegations of inaccurateness or incompleteness in the record, it shall correct its record and shall so inform the department, which shall correct the record accordingly. The department shall inform the applicant of its correction of the record under this subdivision within 30 days.

(c) If such agency denies the allegations of inaccurateness or incompleteness in the record, the matter shall be referred for administrative adjudication in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code for a determination of whether inaccuracy or incompleteness exists in the record. The agency from which the questioned information originated shall be the respondent in the hearing. If an inaccuracy or incompleteness is found in any record, the agency in charge of that record shall be directed to correct it accordingly. Judicial review of the decision shall be governed by Section 11523 of the Government Code. The applicant shall be informed of the decision within 30 days of its issuance in accordance with Section 11518 of the Government Code.

SEC. 86.7. Section 11127 of the Penal Code, as added by Chapter 1439 of the Statutes of 1971, is amended to read:

11127. The department shall adopt all regulations necessary to carry out the provisions of this article.

SEC. 87. Section 11150 of the Penal Code is amended to read:

11150. Prior to the release of a person convicted of arson from an institution under the jurisdiction of the Department of Corrections, the Director of Corrections shall notify the State Fire Marshal and the Department of Justice in writing. The notice shall state the name of the person to be released, the county in which he was convicted and, if known, the county in which he will reside.

SEC. 88. Section 11152 of the Penal Code is amended to read:

11152. Upon receipt of a notice as provided in Sections 11150 or 11151, the State Fire Marshal shall notify all regularly organized fire departments in the county in which the person was convicted and, if known, in the county in which he is to reside and the Department of Justice shall notify all police departments and the sheriff in such county or counties.

SEC. 89. Section 11161.5 of the Penal Code, as amended by Chapter 1729 of the Statutes of 1971, is amended to read:

11161.5. (a) In any case in which a minor is brought to a

physician and surgeon, dentist, resident, intern, chiropractor, or religious practitioner for diagnosis, examination or treatment, or is under his charge or care, or in any case in which a minor is observed by any registered nurse when in the employ of a public health agency, school, or school district and when no physician and surgeon, resident, or intern is present, by any superintendent, any supervisor of child welfare and attendance, or any certificated pupil personnel employee of any public or private school system or any principal of any public or private school, by any teacher or any public or private school, by any licensed day care worker, or by any social worker, and it appears to the physician and surgeon, dentist, resident, intern, chiropractor, religious practitioner, registered nurse, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, school principal, teacher, licensed day care worker, or social worker from observation of the minor that the minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, he shall report such fact by telephone and in writing to the local police authority having jurisdiction and to the juvenile probation department. The report shall state, if known, the name of the minor, his whereabouts and the character and extent of the injuries.

Whenever it is brought to the attention of a director of a county welfare department that a minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, he shall file a report as provided in this section.

No person shall incur any civil or criminal liability as a result of making any report authorized by this section.

Copies of all written reports received by the local police authority shall be forwarded to the Department of Justice. If the records of the Department of Justice maintained pursuant to Section 11110 reveal any reports of suspected infliction of physical injury upon the same minor or upon any other minor in the same family by other than accidental means, or if the records reveal any arrest or conviction in other localities for a violation of Section 273a inflicted upon the same minor or any other minor in the same family, or if the records reveal any other pertinent information with respect to the same minor or any other minor in the same family, the local reporting agency and the local juvenile probation department shall be immediately notified of the fact.

Reports and other pertinent information received from the department shall be made available to: any licensed physician and surgeon, dentist, resident, intern, chiropractor, or religious practitioner with regard to his patient or client; any director of a county welfare department, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, or school principal having a direct interest in the welfare of the minor; and any probation department, juvenile probation department, or agency offering child protective services.

(b) If the minor is a person specified in Section 600 of the Welfare and Institutions Code and the duty of the probation officer has been transferred to the county welfare department pursuant to Section 576.5 of the Welfare and Institutions Code, then the report required by subdivision (a) of this section shall also be made to the county welfare department.

SEC. 90. Section 12030 of the Penal Code is amended to read:

12030. The officer having custody of any firearms which may be useful to the State Guard, the Coast Guard Auxiliary or to any military or naval agency of the federal or state government may upon the authority of the legislative body of the city, city and county, or county by which he is employed and the approval of the Adjutant General of the state deliver such firearms to the commanding officer of a unit of the State Guard, the Coast Guard Auxiliary or any other military agency of the state or federal government in lieu of destruction as required by this chapter. The officer delivering the firearms shall take a receipt for them containing a complete description thereof and shall keep the receipt on file in his office as a public record.

Any law enforcement agency which has custody of any firearms or any parts of any firearms which are subject to destruction as required by this chapter may, in lieu of destroying such weapons, retain and use any of them as may be useful in carrying out the official duties of such agency, or may turn over to the criminalistics laboratory of the Department of Justice or the criminalistics laboratory of a police department, sheriff's office or district attorney's office any such weapons as may be useful in carrying out the official duties of their respective agencies.

Any firearm or part of any firearm which, rather than being destroyed, is used for official purposes pursuant to this section shall be destroyed by the agency using such weapon when it is no longer needed by the agency for use in carrying out its official duties.

Any law enforcement agency that retains custody of any firearm pursuant to this section or that destroys a firearm pursuant to Section 12028 shall notify the Department of Justice of such retention or destruction. This notification shall consist of a complete description of each firearm, including the name of the manufacturer or brand name, model, caliber, and serial number.

SEC. 91. Section 12052 of the Penal Code, as amended by Chapter 1309 of the Statutes of 1971, is amended to read:

12052. The fingerprints of each applicant shall be taken and two copies on forms prescribed by the Department of Justice shall be forwarded to the department. Upon receipt of the fingerprints and the fee as prescribed in Section 12054, the department shall promptly furnish the forwarding licensing authority a report of all data and information pertaining to any applicant of which there is a record in its office. No license shall be issued by any licensing authority until after receipt of such report from the department.

Provided, however, that if the license applicant has previously

applied to the same licensing authority for a license to carry concealed firearms and the applicant's fingerprints and fee have been previously forwarded to the Department of Justice, as herein provided, the licensing authority shall note such previous identification numbers and other data which would provide positive identification in the files of the Department of Justice on the copy of any subsequent license submitted to the department in conformance with Section 12053 and no additional application form or fingerprints shall be required.

SEC. 92. Section 12053 of the Penal Code is amended to read:

12053. When any such license is issued a record thereof shall be maintained in the office of the licensing authority. Copies of each license issued shall be filed immediately by the issuing officer or authority with the Department of Justice.

SEC. 93. Section 12054 of the Penal Code, as amended by Chapter 1309 of the Statutes of 1971, is amended to read:

12054. Each applicant for a new license or for the renewal of a license shall pay at the time of filing his application a fee determined by the Department of Justice to be sufficient to reimburse the Department of Justice for the direct costs of furnishing the report required by Section 12052. The officer receiving the application and the fee shall transmit the fee, with the fingerprints if required, to the Department of Justice. The fee charged shall not exceed ten dollars ($10). The licensing authority of any city or county may charge an additional fee, not to exceed three dollars ($3), for processing any such application, and shall transmit such additional fee, if any, to the city or county treasury.

SEC. 94. Section 12075 of the Penal Code is amended to read:

12075. The State Printer upon issuing a register shall forward to the Department of Justice the name and business address of the dealer together with the series and sheet numbers of the register. The register shall not be transferable. If the dealer moves his business to a different location he shall notify the department of such fact in writing within 48 hours.

SEC. 95. Section 12076 of the Penal Code, as amended by Chapter 1309 of the Statutes of 1971, is amended to read:

12076. The purchaser of any firearm capable of being concealed upon the person shall sign, and the dealer shall require him to sign his legal name and affix his residence address and date of birth to the register in quadruplicate and the salesman shall affix his signature in quadruplicate on each sheet as a witness to the signature of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing an incorrect birth date and any person violating any of the provisions of this section is guilty of a misdemeanor.

Two copies of the original sheet of the register shall, on the date of sale, be placed in the mail, postage prepaid, and properly addressed to the Department of Justice at Sacramento and the third copy of the original shall be mailed, postage prepaid, to the chief of

police, or other head of the police department of the city or county wherein the sale is made. Where the sale is made in a district where there is no municipal police department the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale is made.

If, on receipt of its two copies of the original sheet, it appears to the department that the purchaser resides in a district other than that to which a copy of the original sheet is required to be mailed, the department shall transmit one of its copies to the head of the municipal police department, if any, in the district in which the purchaser resides or, if none, to the sheriff of the county in which he resides.

If the department determines that the purchaser is a person described in Section 12021 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer of such fact.

SEC. 96. Section 12077 of the Penal Code, as amended by Chapter 1309 of the Statutes of 1971, is amended to read:

12077. The register provided for in this article shall be substantially in the following form:

FORM OF REGISTER
Original

Serial No. ____
Sheet No. ____

DEALER'S RECORD OF SALE OF REVOLVER OR PISTOL

STATE OF CALIFORNIA

Notice to dealers: This original is for your files. If spoiled in making out, do not destroy. Keep in books. Fill out in quadruplicate.

Two carbon copies must be mailed on the day of sale to the Department of Justice at Sacramento, and a carbon copy must be mailed at the same time to the head of police commissioners, chief of police, city marshal, town marshal, or other head of police department of the municipal corporation, wherein the sale is made, or to the sheriff of your county if the sale is made in a district where there is no municipal police department. Violation of this law is a misdemeanor. Use carbon paper for duplicates. Use indelible pencil.

Sold by ____________, Salesman ____________
City, town or township, ____________
Description of arm
(state whether revolver or pistol) ____________
Maker ________, number ________, caliber ________
Name of purchaser ____________, age ____ years
Permanent residence (state name of city, town or township, street and number of dwelling) ____________

Date of birth ____________
Height ___ feet, ___ inches. Occupation ____________
Color ______, skin ______, eyes ______, hair ______
If traveling or in locality temporarily, give local address: ______
Signature of purchaser: ____________
(Signing a fictitious name or address is a misdemeanor)
(To be signed in quadruplicate)
Witness: ____________ Salesman.
(To be signed in quadruplicate)
Duplicate, triplicate, and quadruplicate carbon copies.

Serial No. ___
Sheet No. ___

DEALER'S RECORD OF SALE OF REVOLVER OR PISTOL

STATE OF CALIFORNIA

Notice to dealers: Three duplicate carbon copies are required. They must be mailed on the day of sale as set forth in the original of this registered page. Violation of this law is a misdemeanor.

Sold by ____________, Salesman ____________
City, town or township, ____________
Description of arm
(state whether revolver or pistol) ____________
Maker ______, number ______, caliber ______
Name of purchaser ____________, age ___ years
Permanent address (state name of city, town or township, street and number of dwelling) ____________
Date of birth ____________
Height ___ feet, ___ inches. Occupation ____________
Color ______, skin ______, eyes ______, hair ______
If traveling or in locality temporarily, give local address: ______
Signature of purchaser: ____________
(Signing a fictitious name or address is a misdemeanor)
(To be signed in quadruplicate)
Witness: ____________, Salesman.
(To be signed in quadruplicate)
(Any person signing a fictitious name or address or knowingly affixing an incorrect birth date to said register and any person violating any of the provisions of this section is guilty of a misdemeanor.)

SEC. 97. Section 12078 of the Penal Code is amended to read:

12078. The preceding provisions of this article do not apply to sales of concealable firearms made to persons properly identified as full-time paid officers of a city police department, sheriff's department, district attorney's office, the California Highway Patrol, or the State Department of Justice, nor to sales of concealable

firearms made to authorized representatives of cities, cities and counties, counties, state or federal governments for use by such governmental agencies. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser is employed, identifying the purchaser and authorizing the purchase. The certification shall be delivered to the seller at the time of purchase and the purchaser shall identify himself as the person authorized in such certification. On the day the sale is made, the dealer shall forward by prepaid mail to the Department of Justice a report of such sale and the type of information concerning the buyer and the firearm sold as is indicated in Section 12077.

SEC. 98. Section 12079 of the Penal Code is amended to read:

12079. Any person, other than a dealer licensed under the provisions of Section 12071, or a manufacturer or wholesaler of weapons, who orders by mail any pistol, revolver, or firearm capable of being concealed upon the person shall, at least five days before ordering such weapon, file with the chief of police, or other head of the police department of the city, county, or city and county wherein such person maintains his residence or principal place of business, a record in duplicate of such order. When such person resides or has his principal place of business where there is no municipal police department, then such record, in duplicate, shall be filed with the sheriff of the county where such person resides or maintains his principal place of business. Such record shall be substantially in the following form:

RECORD OF ORDER OF CONCEALABLE FIREARM

Name ______________________ Date of birth ________
Permanent address ______________________
Height ____ feet ____ inches. Occupation ______________
Color ______, skin ______, eyes ______, hair ______________
Description of arm
(state whether revolver or pistol) ______________________
Maker ______________________, caliber ______________
Name and address of seller ______________________
Signature ______________________

The city, county, or city and county may charge a fee not exceeding one dollar ($1) for filing such record and shall send the duplicate of such record to the Department of Justice at Sacramento.

Within 14 days after receipt of such ordered weapon, the person who ordered such weapon shall transmit to the Department of Justice at Sacramento the serial number and a description of such weapon.

Any violation of this section is a misdemeanor.

SEC. 99. Section 12090 of the Penal Code is amended to read:

12090. Any person who changes, alters, removes or obliterates the name of the maker, model, manufacturer's number, or other

mark of identification, including any distinguishing number or mark assigned by the Department of Justice on any pistol or revolver, without first having secured written permission from the bureau to make such change, alteration or removal shall be punished by imprisonment in the state prison for not less than one year nor more than five years.

SEC. 100. Section 12092 of the Penal Code is amended to read:

12092. The Department of Justice upon request may assign a distinguishing number or mark of identification to any pistol or revolver whenever it is without a manufacturer's number, or other mark of identification or whenever the manufacturer's number or other mark of identification or the distinguishing number or mark assigned by the department has been destroyed or obliterated.

SEC. 101. Section 12094 of the Penal Code is amended to read:

12094. Any person who knowingly buys, receives, disposes of, sells, offers for sale, or has in his possession any pistol or revolver which does not bear the manufacturer's number or other mark of identification in its original condition or as restored, or a distinguishing number or mark assigned to it by the Department of Justice is guilty of a misdemeanor.

SEC. 102. Section 12230 of the Penal Code, as amended by Chapter 1748 of the Statutes of 1971, is amended to read:

12230. The Department of Justice may issue permits for the possession and transportation or possession or transportation of such machineguns, upon a satisfactory showing that good cause exists for the issuance thereof to the applicant for such permit but no permit shall be issued to a person who is under 18 years of age.

SEC. 103. Section 12231 of the Penal Code is amended to read:

12231. Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the firearms are to be put.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

SEC. 104. Section 12250 of the Penal Code is amended to read:

12250. The Department of Justice may grant licenses in a form to be prescribed by it effective for not more than one year from the date of issuance, to permit the sale at the place specified in the license of machineguns subject to all of the following conditions, upon breach of any of which the license shall be revoked:

1. The business shall be carried on only in the place designated in the license.

2. The license or a certified copy thereof must be displayed on the premises in a place where it may easily be read.

3. No machinegun shall be delivered to any person not authorized to receive the same under the provisions of this chapter.

4. A complete record must be kept of sales made under the authority of the license, showing the name and address of the

purchaser, the descriptions and serial numbers of the weapons purchased, the number and date of issue of the purchaser's permit, if any, and the signature of the purchaser or purchasing agent. This record shall be open to the inspection of any peace officer or other person designated by the Attorney General.

SEC. 105. Section 12251 of the Penal Code is amended to read:

12251. It shall be a public nuisance to possess any machinegun in violation of this chapter, and the Attorney General, any district attorney or any city attorney may bring an action before the superior court to enjoin the possession of any such machinegun.

Any such machinegun found to be in violation of this chapter shall be surrendered to the Department of Justice, and the department shall destroy such machinegun so as to render it unusable and unrepairable as a machinegun, except upon the filing of a certificate with the department by a judge or district attorney stating that the preservation of such machinegun is necessary to serve the ends of justice.

SEC. 106. Section 12305 of the Penal Code is amended to read:

12305. Every dealer, manufacturer, importer, and exporter of any destructive device, or any motion picture or television studio using destructive devices in the conduct of its business, shall obtain a permit for the conduct of such business from the Department of Justice. Such permit shall be issued upon a satisfactory showing to him that good cause exists for the issuance thereof and after the payment of a fee of fifty dollars ($50). Such permit shall be valid for a period of one year only.

SEC. 107. Section 12306 of the Penal Code is amended to read:

12306. Any person, firm or corporation, other than those included in Section 12305, shall obtain a permit from the Department of Justice before possessing or transporting any destructive device. The department may issue such a permit upon a satisfactory showing that good cause exists for the issuance thereof, and after the payment of a fee of ten dollars ($10). The department shall issue a permit without payment of a fee upon a satisfactory showing that the possessor of such destructive devices is a bona fide collector of destructive devices. Such permit shall be valid for a period of one year only.

SEC. 108. Section 12307 of the Penal Code is amended to read:

12307. The possession of any destructive device in violation of this chapter shall be deemed to be a public nuisance and the Attorney General or district attorney of any city, county, or city and county may bring an action before the superior court to enjoin the possession of any such destructive device.

Any such destructive device found to be in violation of this chapter shall be surrendered to the Department of Justice, and the department shall destroy such destructive device so as to render it unusable and unrepairable as a destructive device, except upon the filing of a certificate with the department by a judge or district attorney stating that the preservation of such destructive device is

necessary to serve the ends of justice.

SEC. 109. Section 12403 of the Penal Code, as amended by Chapter 298 of the Statutes of 1971, is amended to read:

12403. After January 1, 1969, nothing in this chapter shall prohibit any person who is a sheriff; undersheriff; deputy sheriff; policeman; reserve or auxiliary deputy sheriff or policeman; marshal; deputy marshal; constable; deputy constable; member of the California Highway Patrol; member of the California State Police Division; Chiefs, Assistant Chiefs, or special agents of the investigative bureaus of the Department of Justice; investigator who is regularly employed and paid as such in the office of the Attorney General and is designated by the Attorney General; investigator who is regularly employed and paid as such in the office of a district attorney and is designated by the district attorney; deputy of the Department of Fish and Game; hospital administrator or police officer of the Department of Mental Hygiene; warden, superintendent, supervisor, or guard of the Department of Corrections; enforcement officers of the Department of Alcoholic Beverage Control described in subdivision (c) of Section 830.3; any superintendent, assistant superintendent, supervisor, or employee having custody of wards, of each institution of the Department of the Youth Authority; or any transportation officer of the Department of the Youth Authority, from purchasing, possessing, or transporting any tear gas weapon for official use in the discharge of their duties, if such weapon has been certified as acceptable under Article 5 (commencing with Section 12450) of this chapter and if such person has satisfactorily completed a course of instruction approved by the Commission on Peace Officers Standards and Training in the use of tear gas.

SEC. 110. Section 12423 of the Penal Code is amended to read:

12423. The Department of Justice may issue a permit for the possession and transportation of tear gas weapons upon proof that good cause exists for the issuance thereof to the applicant for such permit. The permit may also allow the applicant to install, maintain, and operate a protective system involving the use of tear gas weapons in any place which is accurately and completely described in the application for the permit.

SEC. 111. Section 12424 of the Penal Code is amended to read:

12424. Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address, a full description of the place or vehicle in which the tear gas weapons are to be transported, kept, installed, or maintained.

If the tear gas weapons are to be used in connection with, or to constitute, a protective system, the application shall also contain the name of the person who is to install the protective system.

Applications and permits shall be uniform throughout the state upon forms prescribed by the Department of Justice.

SEC. 112. Section 12435 of the Penal Code is amended to read:

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12435. The Department of Justice may grant licenses in a form to be prescribed by it effective for not more than one year from the date of issuance, to permit the sale at retail at the place specified in the license of tear gas weapons, and to permit the installation and maintenance of protective systems involving the use of tear gas weapons subject to all of the following conditions upon breach of any of which the license shall be subject to forfeiture:

(a) The business shall be carried on only in the building designated in the license.

(b) The license or certified copy thereof shall be displayed on the premises in a place where it may easily be read.

(c) No tear gas weapon shall be delivered to any person not authorized to possess or transport the same under the provisions of this chapter. No protective system involving the use of tear gas weapons shall be installed, nor shall supplies be sold for the maintenance of such system, unless the licensee has personal knowledge of the existence of a valid permit for the operation and maintenance of the system.

(d) A complete record shall be kept of sales made under the authority of the license, showing the name and address of the purchaser, the quantity and description of the articles purchased, together with the serial number, the number and date of issue of the purchaser's permit, and the signature of the purchaser or purchasing agent. No sale shall be made unless the permit authorizing possession and transportation of tear gas weapons is displayed to the seller and the information required by this section is copied therefrom. This record shall be open to the inspection of any peace officer or other person designated by the Attorney General.

SEC. 113. Section 12450 of the Penal Code is amended to read:

12450. No tear gas weapon shall be possessed, sold or transported in this state after January 1, 1971, unless, pursuant to the provisions of this article, the Department of Justice has certified that particular type and brand of weapon to be acceptable.

SEC. 114. Section 12452 of the Penal Code is amended to read:

12452. Any person engaged in the manufacture, sale, or transportation of tear gas weapons may apply to the Department of Justice, hereinafter referred to as the "department" in this article, for certification that a particular type and brand of tear gas weapon manufactured, sold, or transported by that person is acceptable.

SEC. 115. Section 12454 of the Penal Code is amended to read:

12454. Within 180 days after the filing of an application as provided for in Section 12452, or such additional period as may be agreed upon by the department and the applicant, the department shall either:

(a) Issue an order certifying such weapon as acceptable.

(b) Give the applicant notice for an opportunity for a hearing before the department on the question whether such weapon is acceptable. If the applicant elects to accept the opportunity for hearing by written request within 30 days after such notice, such

hearing shall commence not more than 60 days after receiving such request unless the department and the applicant otherwise agree. Such hearing shall be heard on an expedited basis and the department shall issue an order granting or denying certification within 90 days after the date fixed by the department for filing final briefs.

SEC. 116. Section 12455 of the Penal Code is amended to read:

12455. The department shall issue an order refusing to certify a tear gas weapon as acceptable if after due notice to the applicant the department finds any of the following:

(a) That the weapon is not acceptable.

(b) That the application contains any misrepresentation of a material fact.

(c) That the application is materially incomplete.

(d) That the State Department of Public Health has recommended that the weapon is not acceptable.

SEC. 117. Section 12456 of the Penal Code is amended to read:

12456. The department shall issue an order revoking certification if, after due notice to the applicant, the department finds any of the following:

(a) That experience or additional testing show that the weapon is not acceptable.

(b) That the application contains any misrepresentation of a material fact.

SEC. 118. Section 12457 of the Penal Code is amended to read:

12457. The department may adopt and promulgate regulations for the fair and efficient enforcement of this article.

SEC. 119. Section 12458 of the Penal Code is amended to read:

12458. Prior to certification, the department shall request from the State Department of Public Health a report on each type and brand of tear gas weapon submitted to it by the department. The State Department of Public Health shall prepare and transmit such report to the department, and shall also submit supplemental reports whenever the facts warrant such action. Such reports shall be for the purpose of aiding the department in determining whether the particular type and brand of tear gas weapon is acceptable, shall contain such facts as will enable it to make such a determination, shall state conclusions concerning the health hazards, if any, of the weapon tested and a recommendation as to the acceptability of the weapon, and shall be based on any one or more of the following:

(a) Investigations conducted by the facilities of the State Department of Public Health

(b) Investigations conducted by independent laboratories.

(c) Any other investigations approved by the State Department of Public Health.

The applicant shall reimburse the State Department of Public Health for any actual expenses incurred by it in preparing such reports.

SEC. 119.1. Article 1 (commencing with Section 13000) of

Chapter 1 of Title 3 of Part 4 of the Penal Code is repealed.

SEC. 119.2. Section 13010 of the Penal Code is amended to read:

13010. It shall be the duty of the department:

(a) To collect data necessary for the work of the department from all persons and agencies mentioned in Section 13020 and from any other appropriate source;

(b) To prepare and distribute to all such persons and agencies, cards or other forms used in reporting data to the department. Such cards or forms may, in addition to other items, include items of information needed by federal bureaus or departments, engaged in the development of national and uniform criminal statistics;

(c) To recommend the form and content of records which must be kept by such persons and agencies in order to insure the correct reporting of data to the department;

(d) To instruct such persons and agencies in the installation, maintenance, and use of such records and in the reporting of data therefrom to the department;

(e) To process, tabulate, analyze and interpret the data collected from such persons and agencies;

(f) To supply, at their request, to federal bureaus or departments engaged in the collection of national criminal statistics data they need from this state;

(g) To present to the Governor, on or before July 1st, a printed annual report containing the criminal statistics of the preceding calendar year and to present at such other times as the Attorney General may approve reports on special aspects of criminal statistics. A sufficient number of copies of all reports shall be printed or otherwise prepared to enable the Attorney General to send a copy to all public officials in the state dealing with criminals and to distribute them generally in channels where they will add to the public enlightenment; and

(h) To periodically review the requirements of units of government using criminal justice statistics, and to make recommendations for changes it deems necessary in the design of criminal justice statistics systems, including new techniques of collection and processing made possible by automation.

SEC. 119.3. Section 13011 of the Penal Code is amended to read:

13011. The department may serve as statistical and research agency to the Department of Corrections, the Adult Authority, the Board of Corrections, the Department of the Youth Authority and the California Women's Board of Terms and Parole.

SEC. 119.4. Section 13012 of the Penal Code is amended to read:

13012. The annual report of the department provided for in Section 13010 shall contain statistics showing:

(a) The amount and the types of offenses known to the public authorities;

(b) The personal and social characteristics of criminals and delinquents; and

(c) The administrative actions taken by law enforcement, judicial,

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penal and correctional agencies or institutions in dealing with criminals or delinquents.

It shall be the duty of the department to give adequate interpretation of such statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall include also statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

SEC. 119.5. Section 13020 of the Penal Code is amended to read:

13020. It shall be the duty of every constable, city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Youth and Adult Corrections Agency, Department of Corrections, Adult Authority, Department of Youth Authority, California Women's Board of Terms and Parole, Department of Mental Hygiene, Department of Public Health, Department of Social Welfare, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him;

(b) To report statistical data to the department at such times and in such manner as the Attorney General prescribes;

(c) To give to the Attorney General, or his accredited agent, access to statistical data for the purpose of carrying out the provisions of this title.

SEC. 119.6. Section 13021 of the Penal Code is amended to read:

13021. Local law enforcement agencies shall report to the Department of Justice such information as the Attorney General may by regulation require relative to misdemeanor violations of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 of this code.

SEC. 119.7. Section 13022 of the Penal Code is amended to read:

13022. Each sheriff and chief of police shall annually furnish the Department of Justice, on a form prescribed by the Attorney General, a report of all justifiable homicides committed in his jurisdiction. In cases where both a sheriff and chief of police would be required to report a justifiable homicide under this section, only the chief of police shall report such homicide.

SEC. 120. Section 504 of the Welfare and Institutions Code is amended to read:

504. The Department of Justice shall not knowingly transmit to any person or agency any information relating to an arrest or taking into custody of a minor under the age of 18 years at the time of such arrest or taking into custody unless such information also includes the

disposition resulting therefrom.

"Disposition," as used herein, includes a release of such minor from custody without the filing of an accusatory pleading or the filing of a petition under the provisions of this chapter, a determination of the issue of wardship by the juvenile court, or a determination by the juvenile court that such minor is not a fit subject to be dealt with under the provisions of this chapter.

This section shall not be construed to prohibit the Department of Justice from transmitting fingerprints or photographs of a minor under the age of 18 years to a law enforcement agency for the purpose of obtaining identification of the minor or from requesting from such agency the history of the minor.

This section shall not be construed to prohibit the Department of Justice from transmitting any information relating to an arrest or taking into custody of a minor under the age of 18 years received by said department prior to the effective date of this section.

SEC. 121. Section 5328.2 of the Welfare and Institutions Code is amended to read:

5328.2. Notwithstanding Section 5328, movement and identification information and records regarding a patient who is committed to the department or to a state hospital for observation or for an indeterminate period as a mentally disordered sex offender, or regarding a patient who is committed to the department or to a state hospital under Section 1026 or 1370 of the Penal Code, shall be forwarded immediately without prior request to the Department of Justice. Except as otherwise provided by law, information automatically reported under this section shall be restricted to name, address, fingerprints, date of admission, date of discharge, date of escape or return from escape, date of any home leave, parole or leave of absence. The Department of Justice may in turn furnish information reported under this section pursuant to Section 11105 of the Penal Code. It shall be a misdemeanor for recipients furnished such information to in turn furnish such information to any person or agency other than those specified in Section 11105 of the Penal Code.

SEC. 122. Section 8104 of the Welfare and Institutions Code is amended to read:

8104. The Department of Mental Hygiene shall keep and maintain records necessary to identify any person who comes within any of the provisions of this chapter. Such records shall be made available to the Department of Justice upon request. The Department of Justice shall make such requests only with respect to its duties with regard to applications for permits for explosives as defined in Section 12000 of the Health and Safety Code, concealable weapons as defined in Section 12001 of the Penal Code, machineguns as defined in Section 12200 of the Penal Code and destructive devices as defined in Section 12301 of the Penal Code. Such records shall not be furnished or made available to any person unless the department determines that disclosure of any information in such records is

necessary to carry out its duties with respect to applications for permits for explosives, destructive devices, concealable weapons, and machineguns.

This section shall remain in effect only until Reorganization Plan No. 1 of 1970 becomes operative and on such date is repealed.

SEC. 123. Section 8104 is added to the Welfare and Institutions Code, to read:

8104. The State Department of Health shall keep and maintain records necessary to identify any person who comes within any of the provisions of this chapter. Such records shall be made available to the Department of Justice upon request. The Department of Justice shall make such requests only with respect to its duties with regard to applications for permits for explosives as defined in Section 12000 of the Health and Safety Code, concealable weapons as defined in Section 12001 of the Penal Code, machineguns as defined in Section 12200 of the Penal Code and destructive devices as defined in Section 12301 of the Penal Code. Such records shall not be furnished or made available to any person unless the department determines that disclosure of any information in such records is necessary to carry out its duties with respect to applications for permits for explosives, destructive devices, concealable weapons, and machineguns.

This section shall become operative on the same date as Reorganization Plan No. 1 of 1970 becomes operative.

SEC. 124. Section 16018 of the Welfare and Institutions Code is amended to read:

16018. Before issuing a license to any person to operate a boarding home, foster home, or other place maintained to receive and care for children, the department or the county or city inspection service, as the case may be, shall secure from the Federal Bureau of Investigation or Department of Justice a full criminal record to determine whether the applicant or his spouse has ever been convicted of a crime other than a minor traffic violation. If it is found that the applicant, or his spouse living in the same location, has been so convicted, the application shall be denied, unless otherwise provided pursuant to the following paragraph.

After review of the record, the Director of Social Welfare, or the person in charge of the county or city inspection service, as the case may be, may exempt any applicant for a license from the provisions of this section, if the record reveals no conviction of a felony involving intentional bodily harm or a sex offense, and if the director or person in charge of the county or city inspection service believes the applicant to be of such good character as to justify issuance of a license.

This section shall remain in effect only until Reorganization Plan No. 1 of 1970 becomes operative and on such date is repealed.

SEC. 125. Section 16018 is added to the Welfare and Institutions Code, to read:

16018. Before issuing a license to any person to operate a boarding home, foster home, or other place maintained to receive

and care for children, the State Department of Health or the county or city inspection service, as the case may be, shall secure from the Federal Bureau of Investigation or Department of Justice a full criminal record to determine whether the applicant or his spouse has ever been convicted of a crime other than a minor traffic violation. If it is found that the applicant, or his spouse living in the same location, has been so convicted, the application shall be denied, unless otherwise provided pursuant to the following paragraph.

After review of the record, the Director of Health, or the person in charge of the county or city inspection service, as the case may be, may exempt any applicant for a license from the provisions of this section, if the record reveals no conviction of a felony involving intentional bodily harm or a sex offense, and if the director or person in charge of the county or city inspection service believes the applicant to be of such good character as to justify issuance of a license.

This section shall become operative on the same date as Reorganization Plan No. 1 of 1970 becomes operative.

SEC. 126. It is the intent of the Legislature, that, if Reorganization Plan No. 1 of 1970 becomes operative, Sections 11655.5 and 11722 of the Health and Safety Code and Sections 8104 and 16018 of the Welfare and Institutions Code, as respectively amended by Sections 51.5, 56.5, 122, and 124 of this act, shall remain in effect only until Reorganization Plan No. 1 of 1970 becomes operative and on that date Sections 11655.5 and 11722 of the Health and Safety Code and Sections 8104 and 16018 of the Welfare and Institutions Code, as respectively added by Sections 52, 57, 123, and 125 of this act, which include the changes in such sections made by both Reorganization Plan No. 1 of 1970 and Sections 51.5, 56.4, 122, and 124 of this act, shall become operative.

SEC. 127. Except as otherwise expressly provided in this act, in the event any other act or acts of the 1972 Regular Session of the Legislature have any effect on any section of any code affected by this act, the provisions of such act or acts shall prevail over the conflicting provisions of this act.

SEC. 128. Section 20 of this act shall be operative until June 30, 1974, and as of that date is repealed.

SEC. 129. Government Code Section 20017.75 as amended by Section 20.1 of this act shall become operative on July 1, 1974.

CHAPTER 1378

An act to amend Sections 35050, 35051, 35052, 35053, 35054, 35055, 35152, 35252, 35254, and 35255 of, and to add Section 35002 to, the Education Code, and to repeal Section 2 of Chapter 815 of the Statutes of 1970, relating to the Public Service Internship Program.

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CHAPTER 141

An act to amend Section 14256 of the Government Code, relating to public works.

[Approved by Governor June 30, 1973. Filed with Secretary of State June 30, 1973.]

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

SECTION 1. Section 14256 of the Government Code is amended to read:

14256. Where the nature of the work in the opinion of the department is such that its services in connection therewith are not required, it may authorize the carrying out of the project directly by the state agency concerned therewith if the estimated cost does not exceed one hundred thousand dollars ($100,000).

If the estimated total cost of any construction project or work carried out under this section exceeds five thousand dollars ($5,000), the district or agency shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids; provided, however, that the director may authorize the district or agency to carry out work in excess of five thousand dollars ($5,000) under the provisions of this section by day labor if he deems that the award of a contract, the acceptance of bids, or the acceptance of further bids is not in the best interests of the state; however, in no event shall the amount of work performed by day labor under this section exceed the sum of thirty-five thousand dollars ($35,000) in the case of agricultural district fair projects, or twenty thousand dollars ($20,000) in other cases.

CHAPTER 142

An act to amend Sections 600, 650, 1246, 2728, 2728.5, 4227, and 9599.5 of the Business and Professions Code, to amend Sections 4213 and 4302 of the Civil Code, to amend Sections 6756, 6880.46, and 13169.2 of the Education Code, to amend Sections 41302, 41332, and 41581 of the Food and Agricultural Code, to amend Sections 11200, 11501, 12538.4, 14670.1, 14670.2, 14670.3, 14672.9, 18107, and 20331.5 of the Government Code, to amend Sections 208, 311, 350, 351, 354, 429.40, 429.41, 429.50, 437.7, 438.4, 441.2, 442.7, 442.10, 542, 1176, 1481.2, 1685, 1686, 3226, 3380, 3400, 3402, 3500, 11217, 11480, 13143.6, 15021, 17926, 25111, 25112, 25737, 25771, 25955.5, 26636, 27041, 28211, 28322, 28616.1, 34700, 38003, 38200, 38202, 38203, 38250, and 38260 of, to amend and renumber Sections 310 and 311 of, and to add Sections 219, 220, and 1275 to, the Health and Safety Code, to amend Sections 6030, 12403, 12455, 12458, and 13020 of the Penal Code, to amend Sections 1435.7, 1461.3, 1516, 1550, 1558, 1853, 1901,

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and 1905 of the Probate Code, to amend Section 19502.5 of the Revenue and Taxation Code, to amend Section 2801 of the Unemployment Insurance Code, to amend Sections 4006, 4010, 4114, 4301, 4302, 4307, 5119, 5170, 5174, 5329, 5355, 5366, 5366.1, 5602, 5650, 5652, 5655, 5664, 5703.1, 5719.1, 5751, 5755.6, 5764, 6324, 7354, 7354.1, 7515, 10020, 10053.5, 14053, 14057.5, 14105.5, 14110, 14113, 14118, 14124.5, 14125.1, 14180, 14201, 14251, 14259, 14260, and 14301 of, and to repeal Section 6719 of the Welfare and Institutions Code, and to amend Section 2 of Chapter 1130 of the Statutes of 1972, Section 14 of Chapter 1228 of the Statutes of 1972, Section 1 of Chapter 501 of the Statutes of 1971, Section 10 of Chapter 1377 of the Statutes of 1971, Section 2 of Chapter 1781 of the Statutes of 1971, and Section 15 of Chapter 1451 of the Statutes of 1969, and to repeal Section 598 of Chapter 1593 of the Statutes of 1971, relating to the Department of Health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1973. Filed with Secretary of State June 30, 1973.]

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

SECTION 1. Section 41302 of the Food and Agricultural Code is amended to read:

41302. Any act which is made unlawful by any provisions of Division 21 (commencing with Section 26000) of the Health and Safety Code is not made lawful by reason of any provision of this part. This part does not limit the powers of the State Department of Health.

SEC. 2. Section 41332 of the Food and Agricultural Code is amended to read:

41332. The Director of Health, for the purpose of enforcing this chapter, may do all of the following:

(a) Enter and inspect every place within the state where canned fruits or vegetables, including olives, are canned, stored, shipped, delivered for shipment, or sold, and inspect all fruits or vegetables, including olives, and containers which are found in any such place.

(b) Seize and retain possession of any canned olives or canned fruits or vegetables which are packed, shipped, delivered for shipment, or sold in violation of any provision of this chapter, and hold them pending the order of the court.

(c) Cause to be instituted and to be prosecuted in the superior court of any county of the state in which may be found canned olives or canned fruits or vegetables which are packed, shipped, delivered for shipment, or sold, in violation of any provision of this chapter, an action for the condemnation of canned olives or canned fruits or vegetables as provided by Division 21 (commencing with Section 26000) of the Health and Safety Code.

SEC. 3. Section 41581 of the Food and Agricultural Code is

amended to read:

41581. If the Director of Health finds, after investigation and examination, that any canned fruits or vegetables, including olives, which are found in the possession of any person, firm, company, or corporation are misbranded or mislabeled within the meaning of this chapter, he may seize such canned fruits or vegetables, including olives, and tag them "embargoed." Such canned fruits or vegetables, including olives, shall not thereafter be sold, removed, or otherwise disposed of pending a hearing and final disposition as provided by Division 21 (commencing with Section 26000) of the Health and Safety Code.

SEC. 4. Section 600 of the Business and Professions Code is amended to read:

600. Except as provided in Article 3 (commencing with Section 3230) of Chapter 4 of Division 4 of the Health and Safety Code and Sections 4008.5 and 25763, it is unlawful for any person, firm, corporation or association, except boards of health or agencies approved by the State Department of Health, to post or otherwise exhibit or distribute in any manner whatsoever in any place, any advertising or other printed matter concerning venereal diseases, lost manhood, lost vitality, impotency, seminal emissions, self-abuse, varicocele, or excessive sexual indulgence, and calling attention to any medicine, device, compound, treatment or preparation that may be used therefor.

Any person violating the provisions of this section shall upon conviction therefor be punished by a fine of not more than five hundred dollars ($500) or by imprisonment in the county jail for not more than one year or by both such fine and imprisonment.

SEC. 5. Section 650 of the Business and Professions Code is amended to read:

650. The offer, delivery, receipt or acceptance, by any person licensed under this division of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest or coownership in or with any person to whom such patients, clients or customers are referred is unlawful.

It shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic, or health care facility solely because such licensee has a proprietary interest or coownership in such laboratory, pharmacy, clinic, or health care facility; but such referral shall be unlawful if the prosecutor proves that there was no valid medical need for such referral.

"Health care facility" means a hospital, nursing home, medical care facility, or private mental institution licensed by the State Department of Health.

SEC. 6. Section 1246 of the Business and Professions Code is amended to read:

1246. Except as provided in Section 13354 of the Vehicle Code, an unlicensed person employed by a licensed clinical laboratory may perform venipuncture or skin puncture for the purpose of withdrawing blood for test purposes upon specific authorization from a licensed physician and surgeon provided that he meets all the following requirements:

(a) He works under the direct supervision of a person licensed under this chapter or of a licensed physician or surgeon.

(b) He has been trained by a licensed physician and surgeon or by a clinical laboratory bioanalyst in the proper procedure to be employed when withdrawing blood in accordance with training requirements established by the State Department of Health and has a statement signed by the instructing physician and surgeon or by the instructing clinical laboratory bioanalyst that such training has been successfully completed.

SEC. 7. Section 2728 of the Business and Professions Code is amended to read:

2728. If adequate medical and nursing supervision by a professional nurse or nurses is provided, nursing service may be given by attendants or psychiatric technicians in institutions under the jurisdiction of or subject to visitation by the State Department of Health or the Department of Corrections. Services so given by a psychiatric technician shall be limited to services which he is authorized to perform by his license as a psychiatric technician.

The Director of Health shall determine what shall constitute adequate medical and nursing supervision in any institution under the jurisdiction of the State Department of Health.

SEC. 8. Section 2728.5 of the Business and Professions Code is amended to read:

2728.5. Except for those provisions of law relating to directors of nursing services, nothing in this chapter or any other provision of law shall prevent the utilization of a licensed psychiatric technician in performing services used in the care, treatment, and rehabilitation of mentally ill, emotionally disturbed, or mentally retarded persons within the scope of practice for which he is licensed in facilities under the jurisdiction of or licensed by the State Department of Health, that he is licensed to perform as a psychiatric technician, including any nursing services under Section 2728, in facilities under the jurisdiction of the State Department of Health.

SEC. 9. Section 4227 of the Business and Professions Code, as amended by Chapter 1336 of the Statutes of 1972, is amended to read:

4227. (a) No person shall furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist or veterinarian.

(b) The provisions of this section do not apply to the furnishing of any dangerous drug by a manufacturer or wholesaler or pharmacy to each other or to a physician, dentist, podiatrist or veterinarian or to a laboratory under sales and purchase records that correctly give the date, the names and addresses of the supplier and the buyer, the

drug and its quantity.

(c) A registered pharmacist, or a person exempted pursuant to Section 4050.7, may distribute dangerous drugs and devices directly to hemodialysis patients pursuant to regulations promulgated by the board. The board shall promulgate such regulations as are necessary to insure the safe distribution of such drugs and devices to hemodialysis patients without interruption of supply including, but not limited to, the following: vendor licensing, records and labeling, patient receipts, patient training, report records, specific product and quantity limitations, verification order forms, reports and supplies, adequate establishment facilities, and reports to the board. A person who violates a regulation promulgated pursuant to this subdivision shall be liable upon order of the board to surrender his personal license. These penalties shall be in addition to penalties which may be imposed pursuant to Sections 4389 and 4350.5. If the board finds any hemodialysis drugs or devices distributed pursuant to this subdivision to be ineffective or unsafe for the intended use, the board may institute immediate recall of any or all of such drugs or devices distributed to individual patients.

(d) Home hemodialysis patients who receive any drugs or devices pursuant to subdivision (c) shall have completed a full course of home training given by a renal dialysis center accredited by the State Department of Health. The physician and surgeon prescribing the hemodialysis products shall submit proof satisfactory to the manufacturer or wholesaler that the patient has completed such program.

SEC. 10. Section 9599.5 of the Business and Professions Code, as added by Chapter 991 of the Statutes of 1972, is amended to read:

9599.5. The dangerously toxic concentrations of vapors of solvents not defined in this chapter shall be established by regulations adopted by the board. The board shall seek the advice of the State Department of Health in developing such regulations.

SEC. 11. Section 4213 of the Civil Code is amended to read:

4213. When unmarried persons, not minors, have been living together as man and wife, they may, without a license, be married by any clergyman, without the necessity of first obtaining health certificates. A certificate of marriage shall be filled out by the parties to the marriage and authenticated by the clergyman performing the ceremony. The certificate shall be filed by the clergyman with the office of the county clerk in the county in which the ceremony was performed within four days after the performance of the ceremony. The county clerk shall maintain this certificate as a permanent record which shall not be open to public inspection except upon order of the superior court issued upon a showing of good cause.

The form of the certificate of marriage shall be prescribed by the State Department of Health. The form shall be furnished to any clergyman by the county clerk without charge.

The total number of marriage certificates filed pursuant to this section shall be reported on a periodic basis to the department on

forms prescribed and furnished by it.

SEC. 12. Section 4302 of the Civil Code, as amended by Chapter 714 of the Statutes of 1972, is amended to read:

4302. Except as hereinafter provided, the certificate of a physician and the statement from a person in charge of a laboratory or from a person authorized to make reports for the laboratory shall be on a form to be provided and distributed by the State Department of Health to laboratories in the state approved by the State Department of Health. This form is hereinafter referred to in this article as "the certificate form."

Such form or an attachment thereto shall contain a statement to the effect that blood tests may identify carriers of genetic diseases, including, but not limited to, sickle cell anemia and Tay-Sachs disease, and that such tests may be performed at the same time as those tests required by Section 4300.

SEC. 13. Section 6756 of the Education Code, as amended by Chapter 1373 of the Statutes of 1972, is amended to read:

6756. The State Board of Education shall adopt rules and regulations which shall prescribe standards for the individual identification and evaluation of educationally handicapped pupils and their admission to special education programs for educationally handicapped pupils. In arriving at such standards the State Board of Education shall receive assistance from an advisory committee consisting of one member from the State Department of Education and one member from the State Department of Health, such members to be appointed by the heads of the respective departments named. In addition, such advisory committee may consist of such additional members as are appointed by the State Board of Education.

SEC. 14. Section 6880.46 of the Education Code, as amended and renumbered by Chapter 1093 of the Statutes of 1972, is amended to read:

6880.46. An Advisory Committee on Development Centers for Handicapped Pupils shall be established to aid in setting standards for admission to centers, and to advise the Department of Education in the administration and operation of centers. The advisory committee shall consist of one member from the Department of Social Welfare to be appointed by the Director of Social Welfare, one member from the State Department of Health to be appointed by the Director of Health, one member from the Department of Education to be appointed by the Director of Education, one lay member from the general public and one parent of a handicapped pupil to be appointed by the Director of Education, and four members each from a school district or a county superintendent of schools office participating in the program to be appointed by the Director of Education. The member from the Department of Education shall serve as secretary of the committee.

The members of the committee shall serve without compensation, except that they may receive their actual and necessary expenses

incurred in the performance of their duties and responsibilities, including travel expenses.

SEC. 15. Section 13169.2 of the Education Code is amended to read:

13169.2. The commission, or the Board of Governors of the California Community Colleges, as the case may be, is authorized to secure information, records, reports, and other data relative to the identification or fitness of any applicant for a credential or for the renewal of a credential from any agency or department of the state and for that purpose, any provision of law to the contrary notwithstanding:

(a) The State Bureau of Criminal Identification and Investigation shall furnish, upon application of the commission or by the Board of Governors of the California Community Colleges, all information pertaining to any applicant of whom there is a record in its office.

(b) Each state hospital under the jurisdiction of the State Department of Health shall furnish upon application of the commission or the Board of Governors of the California Community Colleges and with the consent of the holder or applicant, all information and records pertaining to that holder or applicant of whom there is a record in its office.

The commission or the Board of Governors of the California Community Colleges, as the case may be, upon written request of any private school authority, shall release to that private school authority information and other data relative to the identification or fitness of any applicant for a teaching position in the private school so long as not otherwise prohibited by any other privileged communication statute.

SEC. 16. Section 11200 of the Government Code is amended to read:

11200. The Governor, upon recommendation of the director of the following state departments, may appoint not to exceed two chief deputies for the Directors of the Departments of Finance, Transportation, General Services, and not to exceed one chief deputy for the Directors of the Departments of Social Welfare, Food and Agriculture, Insurance, Human Resources Development, Motor Vehicles, Consumer Affairs, and Water Resources.

The deputies provided for in this section shall be in addition to those authorized by any other law.

SEC. 17. Section 11501 of the Government Code, as amended by Chapter 749 of the Statutes of 1972, is amended to read:

11501. (a) The procedure of any agency shall be conducted pursuant to the provisions of this chapter only as to those functions to which this chapter is made applicable by the statutes relating to the particular agency.

(b) The enumerated agencies referred to in Section 11500 are:

Board of Dental Examiners of California.

Board of Medical Examiners of the State of California and the district review committees.

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Board of Osteopathic Examiners of the State of California.
California Board of Nursing Education and Nurse Registration.
State Board of Optometry.
California State Board of Pharmacy.
State Department of Health.
Board of Examiners in Veterinary Medicine.
State Board of Accountancy.
California State Board of Architectural Examiners.
State Board of Barber Examiners.
State Board of Registration for Professional Engineers.
Registrar of Contractors.
State Board of Cosmetology.
State Board of Funeral Directors and Embalmers.
Structural Pest Control Board.
Department of Navigation and Ocean Development.
Director of Consumer Affairs.
Bureau of Collection and Investigative Services.
State Fire Marshal.
State Board of Registration for Geologists.
Director of Food and Agriculture.
Labor Commissioner.
Real Estate Commissioner.
Commissioner of Corporations.
Department of Social Welfare.
State Social Welfare Board.
Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun.
Board of Pilot Commissioners for Humboldt Bay and Bar.
Board of Pilot Commissioners for the Harbor of San Diego.
Fish and Game Commission.
State Board of Education.
Insurance Commissioner.
Savings and Loan Commissioner.
State Board of Dry Cleaners.
Board of Behavioral Science Examiners.
State Board of Chiropractic Examiners.
State Board of Guide Dogs for the Blind.
Department of Aeronautics.
Board of Administration, Public Employees' Retirement System.
Department of Motor Vehicles.
Bureau of Home Furnishings.
Cemetery Board.
Department of Conservation.
Department of Water Resources acting pursuant to Section 414 of the Water Code.
Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.
Certified Shorthand Reporters Board.
Bureau of Repair Services.

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California State Board of Landscape Architects.
Department of Alcoholic Beverage Control.
California Horse Racing Board.
School districts under Section 13443 of the Education Code.
State Fair Employment Practice Commission.
Bureau of Employment Agencies.

SEC. 17.5. Section 12538.4 of the Government Code, as amended by Chapter 1313 of the Statutes of 1972, is amended to read:

12538.4. Upon registration, each health care service plan shall pay a registration fee of eight cents ($0.08) for each individual or family unit covered as of the close of its last accounting year ; except that the minimum registration fee shall be one hundred dollars ($100) as it is the legislative intent that this measure be self-supporting. Any prepaid drug plan entered into by the State Department of Health for recipients of public assistance shall not be subject to such registration fee.

SEC. 18. Section 14670.1 of the Government Code is amended to read:

14670.1. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Health, may let to a nonprofit corporation, for the purpose of conducting an educational and work program for mentally retarded persons, and for a period not to exceed 50 years, real property not exceeding 10 acres located within the grounds of the Napa State Hospital.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. Such review shall be made by the Director of General Services, who shall:

(a) Assure the state the original purposes of the lease are being carried out;

(b) Determine what, if any, adjustment should be made in the terms of the lease.

The lease shall also provide for an initial capital outlay by the lessee of thirty thousand dollars ($30,000) prior to January 1, 1976. Such capital outlay may be, or may have been, contributed before or after the effective date of the act adding this section.

SEC. 19. Section 14670.2 of the Government Code, as added by Chapter 647 of the Statutes of 1972, is amended to read:

14670.2. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Health, may, in the best interests of the state, let to a public governmental agency, for the purpose of locating and conducting its trainable mentally retarded program, and for a period not to exceed 50 years, real property not exceeding 10 acres located within the grounds of the Napa State Hospital.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. Such review shall be made by the Director of General Services, who shall:

(a) Assure the state the original purposes of the lease are being carried out;

(b) Determine what, if any, adjustment should be made in the terms of the lease.

The lease shall also provide for the establishment of a school building facility by the lessee prior to July 1, 1977. Such facility shall not be established until after the effective date of the act amending this section.

SEC. 20. Section 14670.3 of the Government Code, as added by Chapter 54 of the Statutes of 1972, is amended to read:

14670.3. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Health, may let to a nonprofit corporation, for the purpose of conducting an educational and work program for mentally retarded persons, and for a period not to exceed 55 years, real property not exceeding five acres located within the grounds of the Fairview State Hospital.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. Such review shall be made by the Director of General Services, who shall:

(a) Assure the state that the original purposes of the lease are being carried out;

(b) Determine what, if any, adjustment should be made in the terms of the lease.

The lease shall also provide for an initial capital outlay by the lessee of thirty thousand dollars ($30,000) prior to January 1, 1976. Such capital outlay may be, or may have been, contributed before or after the effective date of the act adding this section.

SEC. 21. Section 14672.9 of the Government Code, as added by Chapter 154 of the Statutes of 1972, is amended to read:

14672.9. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Health, may let in the best interests of the state to a nonprofit corporation, for the purpose of conducting an educational and work program for mentally retarded persons, and for a period not to exceed 50 years, real property not exceeding 43.81 acres located within the grounds of the Agnews State Hospital.

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. Such review shall be made by the Director of General Services, who shall:

(a) Assure the state the original purposes of the lease are being carried out;

(b) Determihe what, if any, adjustment should be made in the terms of the lease.

Any lease executed pursuant to this section shall include a provision that such lease shall be canceled if permanent facilities are not constructed on the leased land within five years after the effective date of this section.

SEC. 22. Section 18107 of the Government Code, as added by Chapter 1228 of the Statutes of 1972, is amended to read:

18107. Any employee of the State Department of Health performing functions which, prior to July 1, 1973, were vested in the

Department of Mental Hygiene and who is transferred on and after July 1, 1972, to county or local mental health programs as a result of state hospital closures or scheduled state hospital closures or as a result of a county undertaking the performance of mental health functions previously performed by the department shall be entitled while employed in a county or local mental health program, to use for a period of five years following transfer any unused sick leave balance the employee had accumulated while in state employment and had remaining to his credit at the time of termination of state employment. Such sick leave shall be held in a reserve account by the state to be used, if necessary, only at such time as the transferred employee's sick leave benefits accrued as a county employee become exhausted. When county sick leave benefits are exhausted such employee shall be entitled to utilize his state reserve account sick leave, until exhausted. The state reserve account for sick leave shall be administered according to the sick leave provisions of Division 5 (commencing with Section 18000) of Title 2 and corresponding State Personnel Board rules. Upon reemployment with the state, a transferred employee's sick leave credits will be reduced by the number of hours used from the state reserve during his employment in the county or local mental health program. The cost of preserving and paying for the state reserve account sick leave shall be totally funded by the state.

SEC. 23. Section 20331.5 of the Government Code is amended to read:

20331.5. Notwithstanding Section 20331, any member of this system employed in the State Department of Health at the Langley Porter Neuropsychiatric Institute, San Francisco, or at the Neuropsychiatric Institute, Los Angeles, who is transferred to university employment pursuant to an agreement between the department and the university respecting operation of such institutes shall have the right to elect to continue his membership in this system. To be effective, such election must be in writing and filed with the board prior to the date of his transfer of employment.

SEC. 23.5. Section 208 of the Health and Safety Code is amended to read:

208. (a) It may adopt and enforce rules and regulations for the execution of its duties.

(b) All regulations heretofore adopted by the State Board of Public Health and the State Department of Public Health pursuant to the authority granted in Sections 102, 308, and 1222 shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director.

(c) All regulations heretofore adopted by the State Department of Mental Hygiene pursuant to the authority granted in Section 4012, 4018, 4101, 4109, 4318, 4350 to 4370.5, inclusive, and 5400, 5750, and 5751 of the Welfare and Institutions Code, and Section 11217 of this code shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director.

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SEC. 24. Section 219 is added to the Health and Safety Code, to read:

219. The director may investigate the work of the licensing boards specified in Section 101.5 of the Business and Professions Code in the department and may obtain a copy of all records and full and complete data in all official matters in possession of the boards, their members, officers, or employees, other than examination questions prior to submission to applicants at scheduled examinations.

SEC. 25. Section 220 is added to the Health and Safety Code, to read:

220. (a) Notwithstanding any other provision of law to the contrary, no rule or regulation, other than those relating to examinations and qualifications for licensure, and no fee change promulgated by any of the licensing boards specified in Section 101.5 of the Business and Professions Code, shall take effect until submitted to the director for review. Any such rule, regulation, or fee change shall become effective 30 days after being submitted to the director, unless the director expressly disapproves such a rule, regulation, or fee change within such period upon the ground that such rule, regulation, or fee change is injurious to the public health, safety, or welfare.

(b) The disapproval by the director of any such rule, regulation, or fee change may be reversed by a unanimous vote of the board, proposing the rule, regulation, or fee change.

SEC. 26. Section 310 of the Health and Safety Code, as added by Chapter 1745 of the Statutes of 1971, is amended and renumbered to read:

325. It is the policy of the State of California to make every effort to detect, as early as possible, sickle cell anemia, a heritable disorder which leads to physical defects.

The State Department of Health shall have the responsibility of designating tests and regulations to be used in executing this policy. Such tests shall be in accordance with accepted medical practices.

Testing for sickle cell anemia may be conducted at the following times:

(a) Upon first enrollment of a child at an elementary school in this state, such child may be tested.

(b) For any child not tested pursuant to subdivision (a), upon first enrollment at a junior high school or senior high school in this state, as the case may be, such child may be tested.

(c) Upon application of any person for a license to marry, the parties seeking to be married may be tested.

The provisions of this section shall not apply if a parent or guardian of a minor child sought to be tested or any adult sought to be tested objects to the test on the ground that the test conflicts with his religious beliefs or practices.

SEC. 27. Section 311 of the Health and Safety Code, as added by Chapter 1029 of the Statutes of 1971, is amended to read:

311. The State Department of Health may establish a five-year

pilot project in not more than six counties to serve areas designated by the city or county health department or city and county health department as areas of high nutritional need under guidelines established by the department. If the state department establishes a pilot project pursuant to this section, the first year of the pilot project shall be devoted to developing the project for review by the Legislature. Any pilot project established pursuant to this section shall comply with all the provisions of this article.

SEC. 28. Section 311 of the Health and Safety Code, as added by Chapter 1745 of the Statutes of 1971, is amended and renumbered to read:

326. The State Department of Health may require that a test be given for sickle cell anemia pursuant to Section 325 to any identifiable segment of the population which the department determines is susceptible to sickle cell anemia at a disproportionately higher ratio than is the balance of the population.

SEC. 28.3. Section 350 of the Health and Safety Code is amended to read:

350. The State Department of Health shall maintain a dental program including, but not limited to, the following:

(a) Development of comprehensive dental health plans within the framework of the State Plan for Health to maximize utilization of all resources.

(b) Provide the consultation necessary to coordinate federal, state, county, and city agency programs concerned with dental health.

(c) Encourage, support, and augment the efforts of city and county health departments in the implementation of a dental health component in their program plans.

(d) Provide evaluation of these programs in terms of preventive services.

(e) Provide consultation and program information to the health professions, health professional educational institutions, and volunteer agencies.

(f) For purposes of this article "State Plan for Health" means that comprehensive state plan for health being developed by the State Department of Health pursuant to Public Law 89-749 (80 Stat. 1180).

SEC. 28.4. Section 351 of the Health and Safety Code is amended to read:

351. The State Director of Health shall appoint a dentist licensed in the State of California to administer the dental program.

SEC. 28.5. Section 354 of the Health and Safety Code is amended to read:

354. The State Department of Health shall have the power to receive for the dental program any financial aid granted by any private, federal, state, district, or local or other grant or source, and the division shall use such funds to carry out the provisions and purposes of this article.

SEC. 28.6. Section 429.40 of the Health and Safety Code is

amended to read:

429.40. The State Department of Health shall provide financial assistance to county and areawide immunization campaigns under the direction of local health officers for the prevention of rubella.

SEC. 28.7. Section 429.41 of the Health and Safety Code is amended to read:

429.41. All moneys appropriated to the department for the purposes of this article shall be made available to local health departments, as defined in Section 1102, or to areawide associations of local health departments. All moneys received by such local departments or areawide associations shall be utilized only for the purchase of rubella vaccines, other necessary supplies and equipment for rubella immunization campaigns, and promotional costs of such campaigns. No moneys appropriated for the purpose of this article shall be used by the State Department of Health or by any local department or areawide association for administrative purposes, and no such moneys may be used to supplant or support local health department clinics and programs already regularly operated by such departments, but may be used only for additional county or areawide rubella immunization campaigns. All moneys appropriated for the purposes of this article shall be expended by March 31, 1971.

SEC. 28.8. Section 429.50 of the Health and Safety Code is amended to read:

429.50. The State Department of Health may do all of the following activities:

(1) Make a continuing study of births, deaths, marriages, and divorce, in order to provide a continuing analysis of such trends to state agencies and to the Legislature.

(2) Request and receive demographic and population data from the Department of Finance.

(3) Make any additional collection of data necessary to describe and analyze fertility, family formation and dissolution, abortion practices, and other factors related to population dynamics, public health, and the environment.

(4) Assess the health, environmental, and related effects of current and projected population.

(5) Formulate recommendations for programs, consistent with individual rights and the integrity of the environment, to respond to projected trends.

SEC. 29. Section 437.7 of the Health and Safety Code is amended to read:

437.7. In order to assure availability of objective and impartial review by planning groups (referred to as voluntary area health planning agencies) of hospitals and related facilities, including facilities licensed by the State Department of Health, or proposed projects for new, additional or revised hospital and related health facility projects, including facilities licensed by the State Department of Health, the Advisory Health Council, from time to time, shall

approve no more than one voluntary area health planning agency for any designated area of the state, provided such group shall meet the following criteria:

(a) Shall be incorporated as a nonprofit corporation and be controlled by a board of directors consisting of a majority representing the public and local government as consumers of health services with the balance being broadly representative of the providers of health services and the health professions.

(b) Shall review information on utilization of hospitals and related health facilities.

(c) Shall develop principles for the determination of community need and desirability to guide hospitals and related health facilities in acting in the public interest. Such principles shall be consistent with the general guidelines developed by the Advisory Health Council in accordance with Section 437.8.

(d) Shall conduct public meetings in which members of the health professions and consumers will be encouraged to participate.

(e) Shall review individual proposals for the construction of new or additional hospital and related health facilities, the conversion of one type of facility to a different category of licensure or the creation or expansion of new areas of service, and make decisions as to the need and desirability for the particular proposal in accordance with the principles developed pursuant to subdivision (c).

(f) Individual proposal reviews shall be in accordance with administrative procedures established by the Advisory Health Council, which shall include, but need not be limited to:

(1) A public hearing.

(2) Reasonable notice.

(3) Right to representation by counsel.

(4) Right to present oral and written evidence and confront and cross-examine opposing witnesses.

(5) Availability of transcript at applicant's expense.

(6) Written findings of fact and recommendations to be delivered to applicant and filed with the State Department of Health as a public record.

(g) Shall have a plan to finance the procedure which shall include, but not necessarily be limited to, filing fees and charges for processing and appeal.

Notwithstanding the foregoing, the following shall constitute the designated areas of this state for area health planning agencies: Area 1, consisting of Del Norte, Humboldt, Mendocino, and Lake Counties; Area 2, consisting of Siskiyou, Modoc, Trinity, Shasta, Lassen, Tehama, Plumas, Glenn, Butte, Colusa, Sutter, and Yuba Counties; Area 3, consisting of Sierra, Nevada, Placer, El Dorado, Sacramento, and Yolo Counties; Area 4, consisting of Sonoma, Napa, Solano, Marin, Contra Costa, San Francisco, Alameda, San Mateo, and Santa Clara Counties; Area 5, consisting of Amador, Alpine, Calaveras, San Joaquin, Stanislaus, Tuolumne, and Merced Counties; Area 6, consisting of Mariposa, Madera, Fresno, Kings, Tulare, and

Kern Counties; Area 7, consisting of Santa Cruz, San Benito, and Monterey Counties; Area 8, consisting of San Luis Obispo, Santa Barbara, and Ventura Counties; Area 9, consisting of Los Angeles County; Area 10, consisting of Orange County; Area 11, consisting of Riverside, San Diego, and Imperial Counties; and Area 12, consisting of Mono, Inyo, and San Bernardino Counties.

Voluntary area health planning agencies may divide their areas into local areas for purposes of more efficient health facility planning, with the approval of the Advisory Health Council. Such local areas shall be of a geographic size and contain adequate population to insure a broad base for planning decisions. Each local area shall contain a voluntary local health planning agency which shall meet the criteria in subdivisions (a) through (g) of this section.

An organization which meets the criteria in subdivisions (a) through (g) of this section may make application to its voluntary area health planning agency for designation as a voluntary local health planning agency for a designated area. After a complete application has been received, the area agency shall reach a decision concerning the application. The decision, or lack of decision, of the area agency may be appealed to the Advisory Health Council. Any appeal shall be made within 30 days of the decision or lack of decision.

Approval of voluntary area and local area health planning agencies, adoption of statewide general principles for planning and the adoption of administrative procedures for voluntary area and local area health planning agencies shall be made by the Advisory Health Council only after notice and public hearing.

SEC. 29.5. Section 438.4 of the Health and Safety Code is amended to read:

438.4. The voluntary area health planning agency, acting upon an application originally or reviewing a recommendation of a voluntary local health planning agency or the consumer members of a voluntary area health planning agency acting as an appeals body, and the Advisory Health Council shall make one of the following decisions:

(a) Approve the application in its entirety;

(b) Deny the application in its entirety;

(c) Approve the application subject to modification by the applicant, as recommended by the body involved.

A decision shall become final when all rights to appeal have been exhausted. Approval shall terminate 12 months after the date of such approval unless the applicant has commenced construction or conversion to a different license category and is diligently pursuing the same to completion as determined by the voluntary area health planning agency; or unless the approval is extended by the voluntary area health planning agency for an additional period of up to 12 months upon the showing of good cause for the extension. If the Advisory Health Council finds that the voluntary area health planning agency has dissolved, it may grant such extension upon a showing by the applicant of good cause for the extension.

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SEC. 30. Section 441.2 of the Health and Safety Code is amended to read:

441.2. The term "Section 441.2 hospital" as used in this part shall include all of the following:

(a) All hospitals of a type required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(b) Institutions conducted, maintained or operated by this state or any state department, authority, district, bureau, commission or officer or by the Regents of the University of California, or by a board of supervisors of a county under the provisions of Chapter 2.5 (commencing with Section 1440) of Division 2, which, except for the exemption provided by Section 1312, would be encompassed by the terms of subdivision (a).

SEC. 31. Section 442.7 of the Health and Safety Code is amended to read:

442.7. In order to assist the commission in the performance of its duties pursuant to this part, there is hereby created an Advisory Council to the California Hospital Commission, to be composed of all of the following:

(a) Three members who shall represent consumers of hospital care services; one of whom shall be a member of and represent a labor union organized under the provisions of Chapter 7 of Title 29 of the United States Code; and one of whom shall be an accountant licensed under Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions Code with at least five years' experience as an accountant or financial officer with responsibility for auditing and supervising the financial affairs of one or more hospitals subject to the provisions of this part.

(b) Five members who shall be broadly representative of the interests of investor-owned, county, university, district, and not-for-profit hospitals which are subject to the provisions of this part.

(c) One member appointed by, and to serve at the pleasure of, the Director of Health.

The three members who are to represent consumers of health care services shall be appointed directly by the commission for a term of three years. The members provided for under subdivision (b) shall be appointed by the commission for a term of three years as follows:

Within 30 days after this section goes into effect, and thereafter within 30 days after any vacancy occurs, any organization, association, or institution whose members may be qualified to fill the vacancy or vacancies then existing may submit to the commission the names of persons qualified to represent it on said advisory council, from which such names the commission shall make its appointments.

No member shall be appointed to a position on the council for more than two consecutive full terms.

SEC. 32. Section 442.10 of the Health and Safety Code is amended to read:

442.10. For the purposes of funding such contracts of the

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commission as are authorized by the provisions of this part and for meeting the costs of the commission in carrying out its duties in the administration thereof, fees shall be collected by the State Department of Health as follows and shall be deposited in the California Hospital Commission Fund which is hereby established:

(a) Every Section 441.2 hospital is hereby charged a special fee of 0.02 of 1 percent of the hospital's gross operating cost for the provision of health care services for its last fiscal year ending on or before June 30, 1971. The fee shall be due on the first day of the first calendar month which commences after the effective date of this section, and delinquent on the last day of the first calendar month which commences after the effective date of this section, and shall be collected by the State Department of Health. Institutions included in Section 441.2 which are exempt from licensure pursuant to the provisions of Section 1312 shall pay the fee required by this subdivision to the Department of Health within the time schedules provided in this section.

(b) For 1973 and every year thereafter, the State Department of Health shall, concurrent with applications for licensure, set, and charge to, and collect from all Section 441.2 hospitals a special fee, which shall be due on January 1 and delinquent on January 31 of each year beginning with the year 1973, of not more than 0.02 of 1 percent of the hospital's gross operating cost for the provision of health care services for its last fiscal year which ended on or before June 30 of the preceding calendar year. Each year the Director of Health shall, after consultation with the commission, establish the fee to produce revenues equal to the appropriation for these purposes in the Budget Act for the current fiscal year. The State Department of Health shall collect such fee from all hospitals licensed by the department which are included within the definition of Section 441.2. Institutions included in Section 441.2 which are exempt from licensure pursuant to the provisions of Section 1312 shall pay the fee required by this subdivision to the State Department of Health within the time schedules provided in this section.

(c) Any amounts raised by the collection of the special fees provided for by subdivisions (a) and (b) of this section which are not required to meet appropriations in the Budget Act for the current fiscal year shall be available to the commission in succeeding years, when appropriated by the Legislature, for expenditure under the provisions of this part and shall reduce the amount of such special fees which the State Department of Health is authorized to set and charge.

(d) No hospital against which the fees required by this section are charged shall be issued a license or have an existing license renewed unless the fees are paid; nor shall any hospital, which is exempt from licensure pursuant to the provisions of Section 1312 but is a Section 441.2 hospital, be permitted to continue to operate without the payment of the fees required by this section. The commission may bring an action to enjoin the violation or threatened violation of this

subdivision in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under the provisions of this subdivision shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except the commission shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or to show or tending to show irreparable damage or loss.

The license of any hospital against which the fees required by this section are charged for the year 1972 shall be revoked, after notice and hearing, if it is determined by the department by which such hospital is licensed that the fee for 1972 was not paid within the time prescribed by subdivision (a).

SEC. 32.5. Section 542 of the Health and Safety Code is amended to read:

542. The state department shall certify as a registered sanitarian any person who qualifies himself by one of the following procedures:

(a) The state department shall accept for registration as a registered sanitarian (1) any person who on or before January 1, 1946, has passed an official civil service examination as certified by an official agency qualifying him as a sanitarian, food and market inspector, sanitary inspector, or housing inspector, given by the state, or by any city, county or local health district of the state; or (2) any person who has prior to the effective date hereof been employed as a sanitarian, food and market inspector, sanitary inspector, or housing inspector by the state, any city, any county, or any city and county, or any local health district of the state.

(b) The state department may hold examinations in various parts of the state for the purpose of determining persons who are qualified and competent to act as registered sanitarians who desire to become employed on a full-time basis in health departments of the state, or of any city, or any county, or of any local health district of the state in the enforcement of state statutes relative to public health, the rules and regulations of the state department and local ordinances pertaining to public health. The state department shall issue a certificate as a registered sanitarian to each person who passes such examination. The state department may by rule establish minimum standards and qualifications for such persons.

SEC. 33. Section 1176 of the Health and Safety Code is amended to read:

1176. Unless the context otherwise requires, the definitions in this section govern the construction of this part:

(a) "Department" means the State Department of Health.

(b) "Director" means the Director of Health.

(c) "Medi-Cal" means the program for providing health care as specified in the Medi-Cal Act in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(d) "Health maintenance organization" means an organization

which provides basic health care, including at least the following:

(1) Inpatient hospital services;

(2) Outpatient hospital services;

(3) Laboratory and X-ray services;

(4) Physician services;

(5) Prescribed drugs.

(e) "Subscriber" means a person who receives health care services from a health maintenance organization.

SEC. 33.5. Section 1275 is added to the Health and Safety Code, to read:

1275. (a) The regulations relating to the licensing of hospitals, heretofore adopted by the Department of Public Health pursuant to Chapter 2 (commencing with Section 1400) of Division 2, of this code, and in effect immediately prior to the effective date of the repeal of such provisions by Sections 2 and 20 of Chapter 1148, Statutes of 1972, shall remain in effect and shall be fully enforceable with respect to any hospital required to be licensed by the provisions of this chapter, unless and until such regulations are readopted, amended, or repealed by the director.

(b) The regulations relating to private institutions receiving or caring for any mentally disordered persons, mentally retarded persons, and other incompetent persons, heretofore adopted by the Department of Mental Hygiene pursuant to Chapter 1 (commencing with Section 7000) of Division 7 of the Welfare and Institutions Code, and in effect immediately prior to the effective date of the repeal of such provisions of the Welfare and Institutions Code by Sections 11 and 20 of Chapter 1148 of the Statutes of 1972, shall remain in effect and shall be fully enforceable with respect to any facility, establishment, or institution for the reception and care of mentally disordered persons, mentally retarded persons and other incompetent persons, required to be licensed by the provisions of this chapter unless and until said regulations are readopted, amended, or repealed by the director.

SEC. 34. Section 1481.2 of the Health and Safety Code is amended to read:

1481.2. Each county conducting a pilot program pursuant to this article shall submit a report to the Legislature and to the State Department of Health, not later than 30 days from the first calendar day of the 1974 Regular Session, evaluating any such pilot program conducted at any hospital operated by the county or under contract with the county. The report shall include an evaluation of the competency and effectiveness of the performance by the mobile intensive care paramedics in their duties in staffing rescue units and in the rendering of medical and nursing care pursuant to this article. The report may include recommendations relating to the extension or modification of the provisions of this article.

SEC. 35. Section 1685 of the Health and Safety Code, as amended by Chapter 618 of the Statutes of 1972, is amended to read:

1685. The governing body of a city, county, city and county or

school district may employ one or more school audiometrists, each of whom shall be registered with the State Department of Health and possess such qualifications as may at the date of registration be prescribed by the state department.

Audiometric testing as conducted by the qualified school audiometrist, pursuant to Section 13300 of the Education Code, or by other qualified certificated school personnel, as defined in Sections 11751 and 11824 of the Education Code, shall meet the standards which the State Department of Health determines necessary to insure the adequacy of hearing testing in the schools. Subject to Section 11822 of the Education Code, audiometric tests may be administered to school and preschool children in school buildings and other places as are or may be used by schools, health departments or other agencies that provide qualified personnel to conduct such tests.

SEC. 36. Section 1686 of the Health and Safety Code, as amended by Chapter 618 of the Statutes of 1972, is amended to read:

1686. The State Department of Health shall, subject to the provisions of Section 1685, issue certificates of registration to school audiometrists and to qualified supervisors of health, pursuant to Sections 11751 and 11823 of the Education Code. The department shall prescribe such qualifications as may be necessary for the testing of the hearing of schoolchildren.

Candidates for registration who present evidence of having satisfactorily completed the required training in audiology and audiometry at an accredited university or college, as prescribed by the State Department of Health, may be issued certificates of registration without further examination.

The state department shall require a registration fee not in excess of ten dollars ($10) for each certificate issued. Such fee shall be based upon a determination by the department as to the amount that is reasonably necessary to pay for the costs of the issuance of certificates of registration.

SEC. 36.5. Section 3226 of the Health and Safety Code is amended to read:

3226. The laboratory shall submit such laboratory reports or records to the State Department of Health as are required by regulation of the department. The health officer may destroy any copies of reports which have been retained by him pursuant to this section for a period of two years.

SEC. 37. Section 3380 of the Health and Safety Code is amended to read:

3380. No person may be unconditionally admitted as a pupil of a private elementary or secondary school or as a pupil of any school district unless prior to his first admission to school in California he has been immunized against poliomyelitis in the manner and with immunizing agents approved by the State Department of Health.

A person who presents evidence that he has received one such immunizing dose of poliomyelitis vaccine may be admitted on

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condition that within a period designated by regulation of the State Department of Health he presents evidence that he has been fully immunized against poliomyelitis.

A person who has not received any poliomyelitis vaccine may be admitted on condition that within two weeks of the date of his admission he shall present evidence that he has obtained his first such immunizing dose and shall thereafter within a period designated by regulation of the State Department of Health present evidence that he has been fully immunized against poliomyelitis.

This chapter does not apply to any person over the age of 16 years.

SEC. 38. Section 3400 of the Health and Safety Code is amended to read:

3400. No person may be unconditionally admitted as a pupil of a private elementary or secondary school or as a pupil of any school district unless prior to his first admission to school in California he has been immunized against measles (rubeola) in the manner and with immunizing agents approved by the State Department of Health.

A person who has not received an immunizing dose of measles (rubeola) vaccine may be admitted on condition that within two weeks of the date of his admission he shall present evidence that he has been fully immunized against measles (rubeola).

This chapter does not apply to any person over the age of 16 years.

SEC. 38.5. Section 3402 of the Health and Safety Code is amended to read:

3402. The county health officer of each county shall organize and have in operation by January 1, 1968, an immunization program so that immunization is made available to all persons required by this chapter to be immunized. He shall also determine how the cost of such a program is to be recovered. To the extent that the cost to the county is in excess of that sum recovered from persons immunized, the cost shall be paid by the county in the same manner as other expenses of the county are paid.

Immunization performed by a private physician shall be acceptable for admission to school if the immunization is performed and records are made in accordance with rules established by the State Department of Health.

SEC. 39. Section 3500 of the Health and Safety Code is amended to read:

3500. Pupils of public and private elementary and secondary schools, except pupils of community colleges, shall be provided the opportunity to receive within the school year the topical application of fluoride or other decay-inhibiting agent to the teeth in the manner approved by the State Department of Health. The program of topical application shall be under the general direction of a dentist licensed in the state and may include self-application.

SEC. 39.4. Section 11217 of the Health and Safety Code, as added by Chapter 1407 of the Statutes of 1972, is amended to read:

11217. No person shall treat an addict for addiction to a narcotic drug which is an opiate except in one of the following:

(a) An institution approved by the Board of Medical Examiners, and where the patient is at all times kept under restraint and control.
(b) A city or county jail.
(c) A state prison.
(d) A facility designated by a county and approved by the State Department of Health pursuant to Division 5 (commencing with Section 5000) of the Welfare and Institutions Code.
(e) A state hospital.
(f) A county hospital.

Methadone in the continuing treatment of addiction to a controlled substance shall be used only in those programs approved by the state department pursuant to Section 4351 of the Welfare and Institutions Code on either an inpatient or outpatient basis, or both.

This section does not apply during emergency treatment, or where the patient's addiction is complicated by the presence of incurable disease, serious accident, or injury, or the infirmities of old age.

Neither this section nor any other provision of this division shall be construed to prohibit the maintenance of a place in which persons seeking to recover from addiction to a controlled substance reside and endeavor to aid one another and receive aid from others in recovering from such addiction, nor does this section or such division prohibit such aid, provided that no person is treated for addiction in such place by means of administering, furnishing, or prescribing of controlled substances. The preceding sentence is declaratory of preexisting law. Every such place shall register with, and be approved by, the state department.

Neither this section or any other provision of this division shall be construed to prohibit short-term methadone detoxification treatment in a controlled setting approved by the director and pursuant to rules and regulations of the director. Facilities and treatment approved by the director under this paragraph shall not be subject to approval or inspection by the Board of Medical Examiners of the State of California, nor shall persons in such facilities be required to register with, or report the termination of residence with, the police department or sheriff's office.

SEC. 39.5. Section 11480 of the Health and Safety Code, as added by Chapter 1407 of the Statutes of 1972, is amended to read:

11480. The Legislature finds that there is a need to encourage further research into the nature and effects of marijuana and hallucinogenic drugs and to coordinate research efforts on such subjects.

There is a Research Advisory Panel which consists of a representative of the State Department of Health, the Chairman of the Interagency Council on Drug Abuse, a representative of the California State Board of Pharmacy, a representative of the Attorney General, a representative of the University of California who shall be a pharmacologist or physician or a person holding a doctorate degree in the health sciences, and a representative of a private university in this state who shall be a pharmacologist or physician or a person

holding a doctorate degree in the health sciences. The Governor shall annually designate the private university represented on the panel. Members of the panel shall be appointed by the heads of the entities to be represented, and they shall serve at the pleasure of the appointing power.

The panel may hold hearings on, and in other ways study, research projects concerning marijuana or hallucinogenic drugs in this state. Members of the panel shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties.

The panel may approve research projects, which have been registered by the Attorney General, into the nature and effects of marijuana or hallucinogenic drugs, and shall inform the Chief of the Bureau of Narcotic Enforcement of the head of such approved research projects which are entitled to receive quantities of marijuana pursuant to Section 11458.

The panel may withdraw approval of a research project at any time, and when approval is withdrawn shall notify the head of the research project to return any quantities of marijuana to the Chief of the Bureau of Narcotic Enforcement.

The panel shall report annually to the Legislature and the Governor those research projects approved by the panel, the nature of each research project, and, where available, the conclusions of the research project.

SEC. 42. Section 13143.6 of the Health and Safety Code, as amended by Chapter 410 of the Statutes of 1972, is amended to read:

13143.6. The State Fire Marshal, with the advice of the State Fire Advisory Board, shall prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire in any building or structure used or intended for use as a home or institution for the housing of any person of any age when such person is referred to or placed within such home or institution for protective social care and supervision services by any governmental agency. Occupancies within the meaning of this section shall be those not otherwise specified in Sections 13113 and 13143 and shall include, but are not limited to those commonly referred to as "certified family care homes," "out-of-home placement facilities," and "halfway houses." Regulations adopted pursuant to this section shall establish minimum standards relating to the means of egress and the adequacy of exits, the installation and maintenance of fire extinguishing and fire alarm systems, the storage, handling, or use of combustible or flammable materials or substances, and the installation and maintenance of appliances, equipment, decorations, and furnishings that may present a fire, explosion, or panic hazard. Such minimum standards shall be predicated on the height, area, and fire-resistive qualities of the building or structure used or intended to be used.

Any building or structure within the scope of this section used or intended to be used for the housing of more than six nonambulatory

persons shall have installed and maintained in proper operating condition an automatic sprinkler system approved by the State Fire Marshal. "Nonambulatory person," as used in this section shall include, but is not limited to, any profoundly or severely mentally retarded, totally deaf, or blind person.

The ambulatory or nonambulatory status of any mentally retarded person within the scope of this section shall be determined by the Director of Health.

Any building or structure within the scope of this section used or intended to be used for the housing of more than six ambulatory persons shall have installed or maintained in proper operating condition an automatic fire alarm system approved and listed by the State Fire Marshal which will respond to products of combustion other than heat.

In adopting regulations pursuant to this section, the State Fire Marshal shall give reasonable consideration to the continued use of existing buildings' housing occupancies established prior to the effective date of this section.

In preparing and adopting regulations pursuant to this section, the State Fire Marshal shall also secure the advice of the appropriate governmental agencies involved in the affected protective social care programs in order to provide compatibility and maintenance of operating programs in this state.

No governmental agency shall refer any person to, or cause their placement in, any home or institution subject to this section without first obtaining verification of conformance to the fire safety standards adopted by the State Fire Marshal pursuant to this section from the fire authority having jurisdiction pursuant to Sections 13145 and 13146.

When a building or structure within the scope of this section is used to house either ambulatory or nonambulatory persons, or both, and an automatic fire sprinkler system, approved by the State Fire Marshal, is installed, this section shall not be construed to also require the installation of an automatic fire alarm system.

SEC. 42.5. Section 15021 of the Health and Safety Code, as added by Chapter 1130 of the Statutes of 1972, is amended to read:

15021. There is in the state department a Building Safety Board which shall advise and act as a board of appeals with regard to seismic structural safety of hospitals. The State Director of Health, with the advice of the Department of General Services, shall appoint the members of the Building Safety Board, which shall advise and act as a board of appeals in all matters affecting seismic structural safety in the administration and enforcement of this chapter. The board shall consist of 11 members appointed by the State Director of Health and six ex officio members who are: the State Director of Health, the State Architect, the State Fire Marshal, the State Geologist, the Chief of the Bureau of Health Facilities Planning and Construction in the state department and the Chief Structural Engineer of the Schoolhouse Section of the Office of Architecture and Construction

in the Department of General Services. Of the appointive members, two shall be structural engineers, two shall be architects, one shall be an engineering geologist, one shall be a soils engineer, one shall be a seismologist, one shall be a mechanical engineer, one shall be an electrical engineer, and one shall be a hospital administrator. The appointive members shall serve at the pleasure of the director. He may also appoint as many other ex officio members as he may desire. Ex officio members are not entitled to vote. Board members, qualified by close connection with hospital design and construction and highly knowledgeable in their respective fields with particular reference to seismic safety, shall be appointed from nominees recommended by the governing bodies of the Structural Engineers Association of California; the California Council, American Institute of Architects; the Earthquake Engineering Research Institute; the Association of Engineering Geologists; the Consulting Engineers Association of California; the California Hospital Association. Board members shall be residents of California.

SEC. 42.6. Section 17926 of the Health and Safety Code, as added by Chapter 1424 of the Statutes of 1972, is amended to read:

17926. The Director of Housing and Community Development shall appoint an advisory committee to assist the department in developing noise insulation standards to be presented to the commission for adoption pursuant to Section 17922.6. The advisory committee shall consist of two architects in private practice, two engineers or scientists having professional and technical experience in the field of acoustics, one building contractor, as defined in Section 7057 of the Business and Professions Code, two specialty contractors classified in Chapter 8 (commencing with Section 700) of Title 16 of the California Administrative Code, one representative from a city, county, or city and county, the State Architect, and the Director of Health.

The members of the advisory committee shall serve without compensation, but shall be allowed necessary expenses incurred in the performance of duty.

SEC. 42.7. Section 25111 of the Health and Safety Code, as added by Chapter 1236 of the Statutes of 1972, is amended to read:

25111. "Department" means the State Department of Health.

SEC. 42.8. Section 25112 of the Health and Safety Code, as added by Chapter 1236 of the Statutes of 1972, is amended to read:

25112. "Director" means the Director of Health.

SEC. 43. Section 25737 of the Health and Safety Code is amended to read:

25737. The secretary shall disseminate to the public factual data and information and interpretations thereof concerning atomic energy development and the uses of radiation in the state with the view to providing a reliable source of accurate information relating to the benefits and hazards of such development and uses. Data and information relating to hazards of radiation shall be developed and disseminated in cooperation with the State Department of Health, as

provided for in paragraph (3) of subdivision (e) of Section 25811.

SEC. 44. Section 25771 of the Health and Safety Code is amended to read:

25771. The State Department of Health shall keep current information on the permits or licenses issued by the United States Atomic Energy Commission in the state and, along with current information on the radiation sources licensed or registered under the provisions of Section 25815, shall transmit such information upon request to any state department or agency or member of the public.

SEC. 45. Section 25955.5 of the Health and Safety Code is amended to read:

25955.5. The State Department of Health shall by regulation establish and maintain a system for the reporting of therapeutic abortions so as to determine the demographic effects of abortion and assess the experience in relation to legal and medical standards pertaining to abortion practices. The reporting system shall not require, permit, or include the identification by name or other means of any person undergoing an abortion. The State Department of Health shall make a report to the Legislature not later than the 30th calendar day each even-numbered year on its findings related to therapeutic abortions and their effects.

The state department shall seek, in addition to any other funds made available to it, federal funds in order to carry out the purposes of this act.

SEC. 46. Section 26636 of the Health and Safety Code, as amended by Chapter 253 of the Statutes of 1972, is amended to read:

26636. Any drug subject to Section 26660 is misbranded unless the manufacturer, packer, or distributor of the drug includes, in all advertisements and other descriptive matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that drug, a true statement of all of the following:

(a) The established name, printed prominently and in a type at least half as large as that used for any proprietary name of the drug.

(b) The formula showing quantitatively each ingredient of the drug to the extent required for labels under Section 26635.

(c) The name and place of business of the manufacturer that produced the finished dosage form of the drug, as prescribed by regulations issued by the State Department of Health. This subdivision shall apply only to advertisements or descriptive matter issued for drugs manufactured in finished dosage form on or after April 1, 1973.

(d) Such other information, in brief summary relating to side effects, contraindications, and effectiveness as shall be required by regulations promulgated by the department.

Regulations relating to side effects, contraindications, and effectiveness issued pursuant to Section 502(n) of the federal act (21 U.S.C. Sec. 352(n)) are the regulations establishing information requirements relating to side effects, contraindications and effectiveness in this state. The department may, by regulation, make

other requirements relating to side effects, contraindications, and effectiveness whether or not in accordance with the regulations adopted under the federal act.

SEC. 47. Section 27041 of the Health and Safety Code is amended to read:

27041. The provisions of this chapter shall be administered by the State Department of Health in accordance with the provisions of Division 21 (commencing with Section 26000) of this code.

SEC. 48. Section 28211 of the Health and Safety Code is amended to read:

28211. All bakery products produced, prepared, packed, sold or offered for sale shall comply with the provisions of Division 21 (commencing with Section 26000) of this code, except as exempted in Section 28210. The State Department of Health shall enforce the provisions of this section which pertain to adulteration, standards of identity, and labeling of bakery products.

SEC. 49. Section 28322 of the Health and Safety Code is amended to read:

28322. A nonalcoholic soft drink, whether or not carbonated, shall be deemed to be misbranded if in a bottle or other closed container unless the name and address of the bottler or distributor thereof appears on such container by being molded, printed, or otherwise labeled thereon, or said name and address is shown on the crown or cap of such container if such container is a permanently and distinctively branded bottle. Such a beverage shall not be deemed to be misbranded under this section if in a bottle or other closed container on which is molded, printed or otherwise labeled the product name, trademark or brand of the distributor or bottler thereof and if a sworn affidavit has been filed with the Department of Health stating the name, trademark, or brand of such beverage, a full and complete description of each territory or area of the state in which such beverage is to be distributed, and the names and addresses of such persons as are responsible for compliance with this division in the bottling and distribution of such beverage in each territory or area of the state in which such beverage is distributed. Nothing in this section shall be deemed to exempt any bottler or distributor of a beverage or beverages from any provision of Division 21 (commencing with Section 26000) of this code.

SEC. 50. Section 28616.1 of the Health and Safety Code is amended to read:

28616.1. All mobile units, upon which food is prepared, except mobile units to which the local health officer has issued written authorization to operate at a special public event, shall operate out of a commissary or other facility approved by the local health officer. All mobile units upon which food is prepared shall be subject to approval by the local health officer and shall be cleaned at the approved commissary or other approved facility after each day's use and before being used again. The commissary shall meet the requirements of Article 2 (commencing with Section 28540) of this

chapter, any rules and the regulations applicable to commissaries adopted by the State Department of Health pursuant to Section 28694.5, and any additional local standards applicable to commissaries. All mobile units upon which food is prepared shall meet the requirements of Article 3 (commencing with Section 28590) of this chapter, any rules and regulations applicable to mobile units adopted by the State Department of Health pursuant to Section 28694.5, and any additional local standards applicable to mobile units.

No food, beverage, or ingredient of food or beverage may be placed on a mobile unit upon which food is prepared except at an approved commissary or other approved facility or directly from a vendor under inspection by the state department or a local health department, or both.

The operator of a mobile unit upon which food is prepared shall maintain a record on such mobile unit which shows the source of all foods, beverages and ingredients of foods and beverages used on such mobile unit and the location of the commissary or other approved facility from which the mobile unit is operated. Such record shall be available for examination by the local health officer or any representative of the state department when the mobile unit is being operated. The failure to maintain such record or the refusal to permit the examination shall be sufficient ground for the revocation of the approval of the mobile unit to operate.

SEC. 50.1. Section 34700 of the Health and Safety Code, as added by Chapter 1393 of the Statutes of 1972, is amended to read:

34700. As used in this part "department" means the Department of Corrections, the Department of Health, the Department of Rehabilitation, or the Department of the Youth Authority.

SEC. 51. Section 38003 of the Health and Safety Code is amended to read:

38003. As used in this division:

(a) "Regional center" means a regional diagnostic, counseling and service center for mentally retarded persons and their families.

(b) "Director" means the Director of the State Department of Health.

(c) "Department" means the State Department of Health.

(d) "Secretary" means the Secretary of the Health and Welfare Agency.

(e) "State council" means the State Developmental Disabilities Planning and Advisory Council.

(f) "Area board" means an areawide mental retardation program board.

(g) "Area plan" means an areawide mental retardation plan.

(h) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, or other neurological-handicapping condition found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals. Such disability originates before an individual attains age 18, continues, or can be expected to continue,

indefinitely, and constitutes a substantial handicap for such individual.

SEC. 52. Section 38200 of the Health and Safety Code is amended to read:

38200. There is in the Health and Welfare Agency the State Developmental Disabilities Planning and Advisory Council.

The council shall consist of 15 voting members. Six members shall represent consumers of services for persons with developmental disabilities of whom one member shall be the parent of a mentally retarded child who is not in a state hospital and one member shall be the parent of a mentally retarded child who is a patient in a state hospital.

Five members shall be representatives of local agencies, nongovernmental organizations, and groups concerned with services for persons with developmental disabilities.

The Governor shall appoint the following seven members of the council: the six representatives of consumers of services for persons with developmental disabilities and one representative of a local agency or nongovernmental organization serving the retarded. The Senate Rules Committee and the Speaker of the Assembly shall each appoint two representatives of local agencies or nongovernmental organizations serving the retarded.

The State Director of Health, the Director of Social Welfare, the Superintendent of Public Instruction, and the Director of the Department of Rehabilitation shall serve as members of the council.

Of the members appointed by the Governor, three shall hold office for three years, two shall hold office for two years, and two shall hold office for one year. The members appointed by the Senate Rules Committee and by the Speaker of the Assembly each shall hold office for three years.

SEC. 53. Section 38202 of the Health and Safety Code is amended to read:

38202. The state council shall advise the Advisory Health Council, the secretary, the Governor and the Legislature on the initiation, coordination, and implementation of programs and projects for the mentally retarded and other developmentally disabled persons including, but not limited to, the following:

(a) Present and proposed programs of state, local governmental, and voluntary agencies for persons with developmental disabilities.

(b) The development by the secretary of a state plan for services for persons with developmental disabilities and the system of priorities contained in a program budget to be developed by the secretary.

(c) The development by the Advisory Health Council of that portion of the state plan for all health services for persons with developmental disabilities.

(d) Standards for services in various facilities that are now being operated or which will hereafter be created.

(e) Standards and rates of state payment for any services

purchased for mentally retarded persons through the regional centers.

(f) The development of uniform recordkeeping in all services for the mentally retarded.

(g) The coordination of services and research activities in the field of developmental disabilities, including the evaluation of services and programs, studies of the prevalence of developmental disabilities, and the development of experimental programs.

(h) The stimulation of planning for professional training in the state universities and colleges.

SEC. 53.5. Section 38203 of the Health and Safety Code is amended to read:

38203. The state council shall prepare and render annually a written report of its activities and its recommendations to the Advisory Health Council, the Secretary of the Health and Welfare Agency, the Governor and the Legislature.

SEC. 54. Section 38250 of the Health and Safety Code is amended to read:

38250. It is the intent of this division that state funds previously allocated to other agencies for the provision of out-of-home prehospital, hospital and posthospital care be allocated, to the fullest extent feasible, to regional centers to contract with appropriate agencies for the provision of out-of-home placements.

In the event either the Governor or the Legislature should obtain federal approval to transfer programs for the mentally retarded from other state departments to the State Department of Health under the provisions of Public Law 90-577 (Intergovernmental Cooperation Act of 1968), the State Controller shall, upon approval of the Director of Finance, transfer to the State Department of Health such parts of the appropriation of the other departments that are related to mental retardation programs; provided further, that such transfer shall enable the state to make maximum utilization of available state and federal funds.

It is the intent of this division that the regional center program be funded by the state on a regional basis using the maximum of federal funds available, and that all funds be transmitted through the department to each regional center.

SEC. 54.5. Section 38260 of the Health and Safety Code is amended to read:

38260. State funds appropriated for the purposes of this division shall not be used to supplant city or county matching funds required under the Budget Act of 1969.

For purposes of this section, city or county matching funds required under the Budget Act of 1969 for services specified in Section 38106 which are provided under the Short-Doyle Act shall be deemed to be the amount of matching funds specified for such services in the city or county Short-Doyle plan as approved by the Director of Health for the 1969–70 fiscal year.

For the purposes of this section, the Secretary, with the approval

of the Department of Finance, shall determine the amount of city or county matching funds with respect to each city or county.

SEC. 55. Section 6030 of the Penal Code is amended to read:

6030. (a) The Board of Corrections shall establish minimum standards for local detention facilities by July 1, 1972. The Board of Corrections shall review such standards biennially and make any appropriate revisions.

(b) The standards shall include, but not be limited to, the following: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities, and personnel training.

(c) In establishing minimum standards, the Board of Corrections shall seek the advice of the following:

(1) For health and sanitary conditions:

The State Department of Health, physicians, psychiatrists, local public health officials, and other interested persons.

(2) For fire and life safety:

The State Fire Marshal, local fire officials, and other interested persons.

(3) For security, rehabilitation programs, recreation, and treatment of persons confined in local detention facilities:

The Department of Corrections, the Department of the Youth Authority, local juvenile justice commissions, local correction officials, experts in criminology and penology, and other interested persons.

(4) For personnel training:

The Commission on Peace Officer Standards and Training, psychiatrists, experts in criminology and penology, the Department of Corrections, the Department of the Youth Authority, local correctional officials, and other interested persons.

SEC. 55.1. Section 12403 of the Penal Code, as amended by Chapter 1377 of the Statutes of 1972, is amended to read:

12403. After January 1, 1969, nothing in this chapter shall prohibit any person who is a sheriff; undersheriff; deputy sheriff; policeman; reserve or auxiliary deputy sheriff or policeman; marshal; deputy marshal; constable; deputy constable; member of the California Highway Patrol; member of the California State Police Division; chiefs, assistant chiefs, or special agents of the investigative bureaus of the Department of Justice; investigator who is regularly employed and paid as such in the office of the Attorney General and is designated by the Attorney General; investigator who is regularly employed and paid as such in the office of a district attorney and is designated by the district attorney; deputy of the Department of Fish and Game; hospital administrator or police officer of the Department of Health; warden, superintendent, supervisor, or guard of the Department of Corrections; enforcement officers of the Department of Alcoholic Beverage Control described in subdivision (c) of Section 830.3; any superintendent, assistant superintendent, supervisor, or employee having custody of wards, of each institution

of the Department of the Youth Authority; or any transportation officer of the Department of the Youth Authority, from purchasing, possessing, or transporting any tear gas weapon for official use in the discharge of their duties, if such weapon has been certified as acceptable under Article 5 (commencing with Section 12450) of this chapter and if such person has satisfactorily completed a course of instruction approved by the Commission on Peace Officers Standards and Training in the use of tear gas.

SEC. 55.2. Section 12455 of the Penal Code, as amended by Chapter 1377 of the Statutes of 1972, is amended to read:

12455. The department shall issue an order refusing to certify a tear gas weapon as acceptable if after due notice to the applicant the department finds any of the following:

(a) That the weapon is not acceptable.

(b) That the application contains any misrepresentation of a material fact.

(c) That the application is materially incomplete.

(d) That the State Department of Health has recommended that the weapon is not acceptable.

SEC. 55.3. Section 12458 of the Penal Code, as amended by Chapter 1377 of the Statutes of 1972, is amended to read:

12458. Prior to certification, the department shall request from the State Department of Health a report on each type and brand of tear gas weapon submitted to it by the department. The State Department of Health shall prepare and transmit such report to the department, and shall also submit supplemental reports whenever the facts warrant such action. Such reports shall be for the purpose of aiding the department in determining whether the particular type and brand of tear gas weapon is acceptable, shall contain such facts as will enable it to make such a determination, shall state conclusions concerning the health hazards, if any, of the weapon tested and a recommendation as to the acceptability of the weapon, and shall be based on any one or more of the following:

(a) Investigations conducted by the facilities of the State Department of Health.

(b) Investigations conducted by independent laboratories.

(c) Any other investigations approved by the State Department of Health.

The applicant shall reimburse the State Department of Health for any actual expenses incurred by it in preparing such reports.

SEC. 55.4. Section 13020 of the Penal Code, as amended by Chapter 1377 of the Statutes of 1972, is amended to read:

13020. It shall be the duty of every constable, city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Youth and Adult Corrections Agency, Department of Corrections, Adult Authority, Department of Youth Authority, California Women's

Board of Terms and Parole, Department of Health, Department of Social Welfare, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him;

(b) To report statistical data to the department at such times and in such manner as the Attorney General prescribes;

(c) To give to the Attorney General, or his accredited agent, access to statistical data for the purpose of carrying out the provisions of this title.

SEC. 56. Section 1435.7 of the Probate Code is amended to read:

1435.7. If a spouse alleged in the petition to be incompetent has not been so found in proceedings under Division 4 or Division 5, or thereafter has been restored to capacity as in this code provided, such spouse, if able to attend, must be produced at the hearing. If such spouse is not able to attend by reason of mental or physical condition, the affidavit or certificate of a duly licensed physician, surgeon, or other medical practitioner, or the certificate of the medical superintendent or acting medical superintendent of a state hospital in this state in which such spouse is a patient, shall be prima facie evidence of the facts therein stated as to the inability of the spouse to attend.

If such spouse is not represented at the hearing by his guardian, or by the public guardian or public administrator or his deputy or assistant, or by the Director of the State Department of Health, the court may, in its discretion, appoint a guardian ad litem to represent the interests of such spouse, and he may be allowed a reasonable fee to be fixed by the court and paid out of the cash proceeds of the transaction or otherwise as the court shall direct.

SEC. 57. Section 1461.3 of the Probate Code is amended to read:

1461.3. If the alleged insane or incompetent person is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Health and such fact is known to the petitioner, the petitioner shall name the institution in the petition, and shall give notice of the filing of the petition for appointment of a guardian and of the time and place of the hearing by mailing such notice and a copy of the petition to the Director of the State Department of Health at his office in Sacramento at least 15 days before the hearing unless the time is shortened by the court for good cause shown.

SEC. 58. Section 1516 of the Probate Code is amended to read:

1516. In all cases where no other or no different procedure is provided by statute, the court on petition of the guardian, creditor or other interested party may from time to time instruct the guardian as to the administration of the ward's estate and the disposition, management, care, protection or preservation of the

estate or any property thereof. Notice of the hearing of such petition shall be given for the period and in the manner required by Section 1200. When the ward is or has been, during the guardianship, confined in a state hospital in this state, notice of hearing and copy of the petition must be given to the Director of the State Department of Health at his office in Sacramento at least 15 days before the hearing.

SEC. 59. Section 1550 of the Probate Code is amended to read:

1550. Within three months after his appointment, or within such further time as the court or judge for a reasonable cause may allow, the guardian must file with the clerk of the court an inventory and appraisement of the state of his ward, together with a copy of the same which copy shall be delivered by the clerk to the county assessor. The guardian shall make oath to the inventory, and the property therein described shall be appraised by the guardian and an inheritance tax referee in the manner provided for the inventory and appraisement of estates of decedents. The guardian may appraise the assets which an executor or administrator could appraise under Section 605. Whenever any ward is or has been during the guardianship confined in a state hospital in this state the guardian must deliver or mail a copy of the inventory to the Director of the State Department of Health at his office in Sacramento. Whenever any property of the ward is discovered which was not included in the inventory, and whenever any other property has been inherited or acquired by the ward, other than by purchase by the guardian, like proceedings must be had for the inventory and appraisement thereof and the delivery or mailing of a copy thereof as are herein provided in relation to the first inventory.

SEC. 60. Section 1558 of the Probate Code is amended to read:

1558. On the application of the guardian or next of kin of an insane or incompetent person, the court may direct the guardian to pay and distribute surplus income, not used for the support and maintenance of the ward, or any part of such surplus income, to the next of kin whom the ward would, in the judgment of the court, have aided, if said ward had been of sound mind. The granting of such allowance and the amounts and proportions thereof shall be discretionary with the court, but the court shall give consideration to the amount of surplus income available after due provision has been made for the proper support and maintenance of the ward, to the circumstances and condition of life to which the ward and said next of kin have been accustomed and to the amount which the ward would, in the judgment of the court, have allowed said next of kin, had said ward been of sound mind. Notice of the hearing of said application shall be given as provided in Section 1557 of this code. When the ward is or has been, during the guardianship, confined in a state hospital in this state, notice of hearing and copy of the petition must be given to the Director of the State Department of Health at his office in Sacramento at least 15 days before the hearing.

The term "surplus income," as used herein, includes any income

received by the guardian during the guardianship, whether received before or after September 15, 1935.

SEC. 61. Section 1853 of the Probate Code is amended to read:

1853. On the application of the conservator, made at any time, which application may be included in a petition filed pursuant to Section 1754, the court may grant to a conservator of the estate or of the person and estate of a conservatee any or all of the following additional powers, which may be exercised with or without notice, hearings, confirmation, or approval of the court and which may be exercised without regard to whether or not other requirements of this code shall have been complied with, except such requirements as shall have been specifically and expressly provided, whether directly or by reference, in the order granting such additional powers:

To institute and maintain all actions and other proceedings for the benefit of and to defend all actions and other proceedings against the conservatee or the conservatorship estate; to take, collect and hold the property of the conservatee; to contract for the conservatorship and to perform outstanding contracts and thereby bind the conservatorship estate; to operate at the risk of the estate any business, farm or enterprise constituting an asset of the conservatorship, to grant and take options; to sell at public or private sale; to create by grant or otherwise easements and servitudes; to borrow money and give security for the repayment thereof; to purchase real or personal property; to alter, improve and repair or raze, replace and rebuild conservatorship property; to let or lease property for any purpose including exploration for and removal of gas, oil and other minerals and natural resources and for any period, including a term commencing at a future time; to loan money on adequate security; to exchange conservatorship property; to sell on credit provided that any unpaid portion of the selling price shall be adequately secured; to vote in person or by proxy all shares and securities held by the conservator; to exercise stock rights and stock options; to participate in and become subject and to consent to the provisions of any voting trust and of any reorganization, consolidation, merger, dissolution, liquidation or other modification or adjustment affecting conservatorship property; to effect necessary insurance for the proper protection of the estate, to pay, collect, compromise, arbitrate or otherwise adjust any and all claims, debts or demands upon the conservatorship, including those for taxes; to abandon valueless property, and to employ attorneys, accountants, investment counsel, agents, depositaries and employees and to pay the expense therefor from the conservatorship estate.

Such additional powers shall be in addition to the general powers of conservators. The granting of said additional powers shall be discretionary with the court. Notice of the hearing of the application therefor, except when the application is included in a petition filed pursuant to Section 1754, shall be given in the manner provided in Section 1200 and whenever any conservatee is or has been during the

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conservatorship confined in a state hospital in this state, such notice also shall be given by the conservator to the Director of the State Department of Health at his office in Sacramento. When additional powers are granted to a conservator, his letters shall state that he has the powers authorized in this section. If such additional powers are granted by a subsequent order, new letters shall be issued and shall state that he has such power or powers as have been granted. The grant of additional powers to the conservator shall not affect the right of the conservator to petition the court as provided in Section 1860.

SEC. 62. Section 1901 of the Probate Code is amended to read:

1901. Within three months after his appointment, or within such further time as the court or judge for a reasonable cause may allow, the conservator of the estate or person and estate of a conservatee shall file with the clerk of the court an inventory and appraisement of the estate of the conservatee, made as of the date of the appointment of the conservator, together with a copy of the same, which copy shall be delivered by the clerk to the county assessor. The conservator shall make oath to the inventory and the property therein described other than money must be appraised, by a conservator and an inheritance tax referee in the manner provided for the inventory and appraisement of estates of decedents. The conservator may appraise the assets which an executor or administrator could appraise under Section 605. Whenever any conservatee is or has been during the conservatorship confined in a state hospital in this state, the conservator shall deliver or mail a copy of the inventory to the Director of the State Department of Health at his office in Sacramento. Whenever any other property of the conservatee is discovered, or is inherited or acquired by the conservatee other than by the actions of the conservator in the investment and management of the estate, like proceedings must be had for the inventory and appraisement thereof as in the case of the original inventory.

SEC. 63. Section 1905 of the Probate Code is amended to read:

1905. No account of the conservator of a conservatee who is or has been during the conservatorship confined in a state hospital in this state shall be settled or allowed unless notice of the time and place of hearing and a copy of the account have been mailed, postage prepaid, to the State Department of Health at least fifteen (15) days before the hearing or unless the court for good cause dispenses with such notice. Unless such notice is so dispensed with, the statute of limitations shall not run against any claim of the State Department of Health against the estate of the conservatee if the account is settled without giving the notice prescribed above.

SEC. 64. Section 19502.5 of the Revenue and Taxation Code is amended to read:

19502.5. (a) A claimant shall not lose his residence for purposes of this part if he or she is temporarily confined to a hospital or medical institution for medical reasons where the homestead was the principal place of residence of the claimant immediately prior to

such confinement.

(b) For purposes of this section, "medical institution" means a facility operated by, or licensed by, the United States, one of the several states, a political subdivision of a state, the State Department of Health, or exempt from such licensure pursuant to subdivision (c) of Section 1312 of the Health and Safety Code.

SEC. 65. Section 2801 of the Unemployment Insurance Code, as amended by Chapter 863 of the Statutes of 1972, is amended to read:

2801. During confinement in a hospital or nursing home, an individual eligible for benefits under this part is entitled to receive in addition to all benefits otherwise provided in this division and irrespective of his receipt of remuneration from his employer, the amount of twelve dollars ($12) for each day not in excess of 20 days in any one disability benefit period, during which he is so confined pursuant to orders of his physician or of a practitioner duly authorized by any bona fide church, sect, denomination, or organization whose principles or teachings call for dependence for healing entirely upon prayer or spiritual means.

For the purposes of this part, "hospital" includes those institutions operated as hospitals but exempt from licensing by the State Department of Health under the provisions of subdivision (c) of Section 1312 of the Health and Safety Code.

For the purposes of this part, "nursing home" shall mean an extended care facility, as defined in subsection (j) of Section 1395x of Title 42 of the United States Code. "Nursing home" shall also mean any nursing home conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

SEC. 65.4. Section 4006 of the Welfare and Institutions Code is amended to read:

4006. With the approval of the Department of General Services and for use in the furtherance of the work of the State Department of Health, the director may accept any or all of the following:

(a) Grants of interest in real property.

(b) Grants of money received by this state from the United States, the expenditure of which is administered through or under the direction of any department of this state.

(c) Gifts of money from public agencies or from persons, organizations, or associations interested in scientific, educational, charitable, or mental hygiene fields.

SEC. 65.5. Section 4010 of the Welfare and Institutions Code is amended to read:

4010. Except as in this chapter otherwise prescribed, the provisions of the Government Code relating to state officers and departments shall apply to the State Department of Health.

SEC. 65.6. Section 4114 of the Welfare and Institutions Code is amended to read:

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4114. The authorities for the several hospitals shall furnish to the State Department of Health the facts mentioned in Section 4019 of this code and such other obtainable facts as the department from time to time requires of them, with the opinion of the superintendent thereon, if requested. The superintendent or other person in charge of a hospital shall, within 10 days after the admission of any person thereto, cause an abstract of the medical certificate and order on which such person was received and a list of all property, books, and papers of value found in the possession of or belonging to such person to be forwarded to the office of the department, and when a patient is discharged, transferred, or dies, the superintendent or person in charge shall within three days thereafter, send the information to the office of the department, in accordance with the form prescribed by it.

SEC. 66. Section 4301 of the Welfare and Institutions Code is amended to read:

4301. The Director of the State Department of Health shall appoint and define the duties, subject to the laws governing civil service, of the medical director and the hospital administrator for each state hospital.

The director shall appoint a program director for each program at a state hospital.

SEC. 66.5. Section 4302 of the Welfare and Institutions Code is amended to read:

4302. The Director of the State Department of Health shall have the final authority for determining all other employee needs after consideration of program requests from the various hospitals.

SEC. 67. Section 4307 of the Welfare and Institutions Code is amended to read:

4307. As often as a vacancy occurs in a hospital under the jurisdiction of the Director of the State Department of Health, he shall appoint, as provided in Section 4301, a medical director, a hospital administrator, and program directors.

A hospital administrator shall be a college graduate preferably with an advanced degree in hospital, business or public administration and shall have had experience in this area. He shall receive a salary which is competitive with other private and public mental hospital administrators.

Medical directors shall be physicians who have passed, or shall pass, an examination for a license to practice medicine in California and shall be qualified specialists in a branch of medicine that includes diseases affecting the brain and nervous system and be well qualified by training or experience to have proven skills in mental hospital program administration.

The standards for the professional qualifications of a program director shall be established by the Director of the State Department of Health for each patient program except that if the duties of the program director include the providing, supervising, or consulting with regard to the medical care of patients, the qualifications of the

program director shall be the same as medical director with regard to licensing and medical speciality training.

SEC. 68. Section 5119 of the Welfare and Institutions Code, as added by Chapter 1228 of the Statutes of 1972, is amended to read:

5119. On and after July 1, 1972, when a person who is an employee of the State Department of Health at the time of employment by a county in a county mental health program or on and after July 1, 1972, when a person has been an employee of the State Department of Health within the 12-month period prior to his employment by a county in a county mental health program, the board of supervisors may, to the extent feasible, allow such person to retain as a county employee, those employee benefits to which he was entitled or had accumulated as an employee of the State Department of Health or provide such employee with comparable benefits provided for other county employees whose service as county employees is equal to the state service of the former employee of the State Department of Health. Such benefits include, but are not limited to, retirement benefits, seniority rights under civil service, accumulated vacation and sick leave.

The county may on and after July 1, 1972, establish retraining programs for the State Department of Health employees transferring to county mental health programs provided such programs are financed entirely with state and federal funds made available for that purpose.

For the purpose of this section "employee of the Department of Health" means an employee of such department who performs functions which, prior to July 1, 1973, were vested in the Department of Mental Hygiene.

SEC. 69. Section 5170 of the Welfare and Institutions Code is amended to read:

5170. When any person is a danger to others, or to himself, or gravely disabled as a result of inebriation, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, or other person designated by the county may, upon reasonable cause, take, or cause to be taken, the person into civil protective custody and place him in a facility designated by the county and approved by the State Department of Health as a facility for 72-hour treatment and evaluation of inebriates.

SEC. 70. Section 5174 of the Welfare and Institutions Code is amended to read:

5174. It is the intent of the Legislature (a) that facilities for 72-hour treatment and evaluation of inebriates be subject to state funding under Part 2 (commencing with Section 5600) of this division only if they primarily provide medical services and would normally be considered an integral part of a community health program; (b) that state reimbursement under Part 2 (commencing with Section 5600) for such 72-hour facilities and intensive treatment facilities under this article shall not be included as priority funding

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as are reimbursements for other county expenditures under this part for involuntary treatment services, but may be provided on the basis of new and expanded services if funds for new and expanded services are available; that while facilities receiving funds from other sources may, if eligible for funding under this division, be designated as 72-hour facilities or intensive treatment facilities for the purposes of this article, funding of such facilities under this division shall not be substituted for such previous funding.

No 72-hour facility or intensive treatment facility for the purposes of this article shall be eligible for funding under Part 2 (commencing with Section 5600) of this division until approved by the Director of Health in accordance with standards established by the State Department of Health in regulations adopted pursuant to this part. To the maximum extent possible, each county shall utilize services provided for inebriates and persons impaired by chronic alcoholism by federal and other funds presently used for such services, including federal and other funds made available to the State Department of Rehabilitation and the State Department of Social Welfare. McAteer funds shall not be utilized for the purposes of the 72-hour involuntary holding program as outlined in this chapter.

SEC. 70.5. Section 5329 of the Welfare and Institutions Code is amended to read:

5329. Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards set by the State Director of Health.

SEC. 71. Section 5355 of the Welfare and Institutions Code is amended to read:

5355. If the conservatorship investigation results in a recommendation for conservatorship, the recommendation shall designate the most suitable person or state or local agency or county officer or employee designated by the county to serve as conservator. No person, nor agency, shall be designated as conservator whose interests, activities, obligations or responsibilities are such as to compromise his or their ability to represent and safeguard the interests of the conservatee. Nothing in this section shall be construed to prevent the State Department of Health from serving as guardian pursuant to Section 7284, or the function of the conservatorship investigator and conservator being exercised by the same public officer or employee.

When a public guardian is appointed conservator, his official bond and oath as public guardian are in lieu of the conservator's bond and oath on the grant of letters of conservatorship. No bond shall be required of any other public officer or employee appointed to serve as conservator.

SEC. 72. Section 5366 of the Welfare and Institutions Code is amended to read:

5366. On or before June 30, 1970, the medical director of each state hospital for the mentally disordered shall compile a roster of those mentally disordered or chronic alcoholic patients within the

institution who are gravely disabled. The roster shall indicate the county from which each such patient was admitted to the hospital or, if the hospital records indicate that the county of residence of the patient is a different county, the county of residence. The officer providing conservatorship investigation for each county shall be given a copy of the names and pertinent records of the patients from that county and shall investigate the need for conservatorship for such patients as provided in this chapter. After his investigation and on or before July 1, 1972, the county officer providing conservatorship shall file a petition of conservatorship for such patients that he determines may need conservatorship. Court commitments under the provisions of law in effect prior to July 1, 1969, of such patients for whom a petition of conservatorship is not filed shall terminate and the patient shall be released unless he agrees to accept treatment on a voluntary basis.

Each state hospital and the State Department of Health shall make their records concerning such patients available to the officer providing conservatorship investigation.

SEC. 72.5. Section 5366.1 of the Welfare and Institutions Code is amended to read:

5366.1. Any person detained as of June 30, 1969, under court commitment, in a private institution, a county psychiatric hospital, facility of the Veterans Administration, or other agency of the United States government, community mental health service, or detained in a state hospital or facility of the Veterans Administration upon application of a local health officer, pursuant to former Section 5567 or Sections 6000 to 6019, inclusive, as they read immediately preceding July 1, 1969, may be detained, after January 1, 1972, for a period no longer than 180 days, except as provided in this section.

Any person detained pursuant to this section on the effective date of this section shall be evaluated by the facility designated by the county and approved by the State Department of Health pursuant to Section 5150 as a facility for 72-hour treatment and evaluation. Such evaluation shall be made at the request of the person in charge of the institution in which the person is detained. If in the opinion of the professional person in charge of the evaluation and treatment facility or his designee, the evaluation of the person can be made by such professional person or his designee at the institution in which the person is detained, the person shall not be required to be evaluated at the evaluation and treatment facility, but shall be evaluated at the institution where he is detained, or other place to determine if the person is a danger to others, himself, or gravely disabled as a result of mental disorder.

Any person evaluated under this section shall be released from the institution in which he is detained immediately upon completion of the evaluation if in the opinion of the professional person in charge of the evaluation and treatment facility, or his designee, the person evaluated is not a danger to others, or to himself, or gravely disabled as a result of mental disorder, unless the person agrees voluntarily to

remain in the institution in which he has been detained.

If in the opinion of the professional person in charge of the facility or his designee, the person evaluated requires intensive treatment or recommendation for conservatorship, such professional person or his designee shall proceed under Article 4 (commencing with Section 5250) of Chapter 2, or under Chapter 3 (commencing with Section 5350), of Part 1 of Division 5.

If it is determined from the evaluation that the person is gravely disabled and a recommendation for conservatorship is made, and if the petition for conservatorship for such person is not filed by June 30, 1972, the court commitment or detention under a local health officer application for such person shall terminate and the patient shall be released unless he agrees to accept treatment on a voluntary basis.

SEC. 73. Section 5602 of the Welfare and Institutions Code is amended to read:

5602. By July 1, 1969, the board of supervisors of every county, or the boards of supervisors of counties acting under the joint powers provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code shall establish a community mental health service to cover the entire area of the county or counties. Services to mentally disordered persons in the county or counties by county agencies and county institutions, by private agencies or facilities, and by the hospitals of the State Department of Health shall be provided in accordance with the county Short-Doyle plan. Services of the State Department of Health shall be provided to the county, or counties acting jointly, pursuant to Section 5401, or, if both parties agree, the state facilities may, in whole or in part, be leased, rented or sold to the county or counties for county operation, subject to such terms and conditions as are approved by the Director of General Services.

SEC. 74. Section 5650 of the Welfare and Institutions Code is amended to read:

5650. On or before October 1 of each year, the board of supervisors of each county, or boards of supervisors of counties acting jointly, shall adopt, and submit to the Director of the State Department of Health in the form and according to the procedures specified by the director, an annual county Short-Doyle plan for the next fiscal year for mental health services in the county or counties. The purpose of a county plan shall be to provide the basis for reimbursement pursuant to the provisions of this division and to coordinate services as specified in this chapter in such a manner as to avoid duplication, fragmentation of services, and unnecessary expenditures.

To achieve this purpose, a county Short-Doyle plan shall provide for the most appropriate and economical use of all existing public and private agencies, licensed private institutions, and personnel. A county Short-Doyle plan shall include the fullest possible and most appropriate participation by existing city Short-Doyle programs,

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local public and private general and psychiatric hospitals, state hospitals, city, county, and state health and welfare agencies, public guardians, mental health counselors, alcoholism programs, probation departments, physicians, psychologists, social workers, public health nurses, psychiatric technicians, and all such other public and private agencies and personnel as are required to, or may agree to, participate in the county Short-Doyle plan.

SEC. 75. Section 5652 of the Welfare and Institutions Code is amended to read:

5652. When the county Short-Doyle plan is submitted to the Director of the State Department of Health it shall be accompanied by a document indicating the plan has been reviewed by the local mental health advisory board.

SEC. 76. Section 5655 of the Welfare and Institutions Code is amended to read:

5655. All departments of state government and all local public agencies shall cooperate with county officials to assist them in mental health planning. The State Department of Health shall, upon request and with available staff, provide consultation services to the local mental health directors, local governing bodies and local mental health advisory boards.

SEC. 77. Section 5664 of the Welfare and Institutions Code, as added by Chapter 1228 of the Statutes of 1972, is amended to read:

5664. Each county Short-Doyle plan adopted for the 1973–74 fiscal year and each fiscal year thereafter for a county or counties in which a state hospital is scheduled to be closed shall contain a complete program, to be developed jointly by the State Department of Health and the county, for absorbing as many of the staff of such hospital into the local mental health programs as may be needed by the county. Such programs shall include a redefinition of occupational positions, if necessary, and a recognition by the counties of licensed psychiatric technicians for treatment of the mentally disordered, mentally retarded, drug abusers, and alcoholics.

SEC. 78. Section 5703.1 of the Welfare and Institutions Code is amended to read:

5703.1. On or before March 15, 1972, and on or before March 15 of each year thereafter, each county shall submit to the State Department of Health a revised county plan for the next succeeding fiscal year which includes such revisions as are necessary or desirable to make the plan compatible with the budget for that fiscal year submitted by the Governor to the Legislature. Such revised plan shall include a revised estimate of the county's utilization of the state hospital by numbers of admissions and patient-days for the next succeeding fiscal year. By May 1, 1972, and by May 1 of each year thereafter, the State Department of Health shall review and approve each county plan together with such revisions and revised estimates. Such approval shall be subject to the amount appropriated for the purposes of such plans in the Budget Act for such fiscal year as enacted into law.

If the amount appropriated in the Budget Act for such fiscal year as enacted into law differs from the amount in the budget submitted by the Governor for such fiscal year, each county shall submit an additional revised plan in the form and at the time required by the State Department of Health.

SEC. 78.4. Section 5719.1 of the Welfare and Institutions Code is amended to read:

5719.1. Notwithstanding the provisions of Section 5705, the net costs of conservatorship investigation, as defined by regulations of the State Department of Health, shall be reimbursed on a basis of 60 percent state funds and 40 percent county funds for conservatorship investigation services provided in fiscal year 1970–71, on a basis of 65 percent state funds and 35 percent county funds for conservatorship investigation services provided in fiscal year 1971–72, on a basis of 75 percent state funds and 25 percent county funds for conservatorship investigation services provided in fiscal year 1972–73, and on a basis of 90 percent state funds and 10 percent county funds for conservatorship investigation services provided in fiscal year 1973–74 and in each fiscal year thereafter.

SEC. 78.5. Section 5751 of the Welfare and Institutions Code is amended to read:

5751. The State Director of Health, after approval by the California Conference of Local Mental Health Directors, shall by regulation establish standards of education and experience for professional, administrative and technical personnel employed in mental health services and for the organization and operation of mental health services. No regulations shall be adopted which prohibit a psychiatrist, psychologist or clinical social worker from employment in a local mental health program in any professional, administrative or technical positions in mental health services.

Regulations pertaining to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607. Such standards may include the maintenance of records of services, finances, and expenditures, which shall be reported to the State Department of Health in a manner and at such times as it may specify.

Regulations pertaining to the position of director of local mental health services, where the local director is other than the local health officer or medical administrator of the county hospitals, shall require that the director be a psychiatrist, psychologist, clinical social worker, or hospital administrator, who meets the standards of education and experience established by the State Director of Health. Where the director is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by Section 2137 of the Business and Professions Code.

The regulations shall be adopted in accordance with the Administrative Procedure Act, Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of the Government Code.

This section shall remain in effect only until Reorganization Plan No. 1 becomes operative and on such date is repealed.

SEC. 78.7. Section 5751 of the Welfare and Institutions Code is amended to read:

5751. The Director of Health, after approval by the California Conference of Local Mental Health Directors, shall by regulation establish standards of education and experience for professional, administrative, and technical personnel employed in mental health services and for the organization and operation of mental health services. No regulations shall be adopted which prohibit a psychiatrist, psychologist or clinical social worker from employment in a local mental health program in any professional, administrative or technical positions in mental health services.

Regulations pertaining to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607. Such standards may include the maintenance of records of services, finances and expenditures, which shall be reported to the State Department of Health in a manner and at such times as it may specify.

Regulations pertaining to the position of director of local mental health services, where the local director is other than the local health officer or medical administrator of the county hospitals, shall require that the director be a psychiatrist, psychologist, clinical social worker or hospital administrator, who meets standards of education and experience established by the Director of Health. Where the director is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by Section 2137 of the Business and Professions Code.

The regulations shall be adopted in accordance with the Administrative Procedure Act, Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of the Government Code.

This section shall become operative on the same date as Reorganization Plan No. 1 of 1970 becomes operative.

SEC. 78.9. Section 5755.6 of the Welfare and Institutions Code, as added by Chapter 1228 of the Statutes of 1972, is amended to read:

5755.6. Beginning July 1, 1973, the State Department of Health shall notify the counties and the Legislature at least nine months in advance of planned state hospital closures. To the extent feasible, the full supporting details of any planned state hospital closures shall be included in the budget required by the State Constitution to be submitted by the Governor at each regular session of the Legislature for the 1973–74 fiscal year and each fiscal year thereafter.

SEC. 79. Section 5764 of the Welfare and Institutions Code is amended to read:

5764. The Citizens Advisory Council shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter including, but not limited to the following:

(a) To advise the Director of the State Department of Health on

the development of the state five-year mental health plan and the system of priorities contained in that plan.

(b) To periodically review all mental health services in California, conducting independent investigations and studies as necessary. The Citizens Advisory Council may prepare such reports as necessary to the Governor, the Legislature, and the Director of the State Department of Health, and the State Advisory Health Council.

(c) To suggest rules, regulations and standards for the administration of this division.

(d) To encourage, whenever necessary and possible the coordination on a regional basis of community mental health resources, with the purpose of avoiding duplication and fragmentation of services.

(e) To mediate disputes between counties and the state arising under this part.

(f) To employ such administrative, technical and other personnel as may be necessary for the performance of its powers and duties, subject to the approval of the Department of Finance.

(g) To fix the salaries of the personnel employed pursuant to this section which salaries shall be fixed as nearly as possible to conform to salaries established by the State Personnel Board for classes of positions in the state civil service involving comparable duties and responsibilities.

(h) To accept any federal fund granted, by act of Congress or by executive order, for purposes within the purview of the Citizens Advisory Council, subject to the approval of the Department of Finance.

(i) To accept any gift, donation, bequest, or grants of funds from private and public agencies for all or any of the purposes within the purview of the Citizens Advisory Council, subject to the approval of the Department of Finance.

SEC. 79.4. Section 6324 of the Welfare and Institutions Code is amended to read:

6324. The provisions of Section 4025 and of Article 4 (commencing with Section 7275) of Chapter 3 of Division 7 relative to the property and care and support of persons in state hospitals, the liability for such care and support, and the powers and duties of the State Department of Health and all officers and employees thereof in connection therewith shall apply to persons committed to state hospitals pursuant to this article the same as if such persons were expressly referred to in said Section 4025 and said Article 4 (commencing with Section 7275) of Chapter 3 of Division 7.

SEC. 79.5. Section 6719 of the Welfare and Institutions Code is repealed.

SEC. 80. Section 7354 of the Welfare and Institutions Code, as amended by Chapter 1298 of the Statutes of 1972, is amended to read:

7354. Any mentally retarded, developmentally disabled, or mentally disordered person may be granted care in a licensed institution or other suitable licensed or certified facility. The State

Department of Health may pay for such care at a rate not exceeding the average cost of care of patients in the state hospitals as determined by the Director of the State Department of Health. Such payments shall be made from funds available to the department for that purpose.

The State Department of Health may make payments for services for mentally retarded, developmentally disabled and mentally disordered patients in private facilities released or discharged from state hospitals on the basis of reimbursement for reasonable cost, using the same standards and rates consistent with those established by the department for similar types of care. Such payments shall be made within the limitation of funds appropriated to the department for that purpose.

No payments for care or services of a mentally disordered patient shall be made by the State Department of Health pursuant to this section unless such care or services are requested by the local director of the mental health services of the county of the patient's residence, unless provision for such care or services is made in the county Short-Doyle plan of the county under which the county shall reimburse the department for 10 percent of the amount expended by the department, exclusive of such portion of the cost as is provided by the federal government.

The provision for such 10-percent county share shall be inapplicable with respect to any county with a population of under 100,000 which has not elected to participate financially in providing services under Division 5 (commencing with Section 5000) in accordance with Section 5709.5.

No payments for care or services of a mentally retarded or developmentally disabled person shall be made by the State Department of Health pursuant to this section on and after July 1, 1971, unless requested by the regional center having jurisdiction over the patient and provision for such care or services is made in the areawide mental retardation plan.

SEC. 81. Section 7354.1 of the Welfare and Institutions Code, as amended and renumbered by Chapter 1298 of the Statutes of 1972, is amended to read:

7354.1. The State Department of Health may grant certificates to private homes for family care of mentally disordered, mentally retarded, and developmentally disabled persons who have been in hospitals or to prevent unnecessary hospitalization at public expense. Such certificates shall be granted without payment of fees. Each such home may care for not more than six (6) patients and shall be regulated by standards established by the department for the care of such patients.

SEC. 82. Section 7515 of the Welfare and Institutions Code is amended to read:

7515. The medical director may, with the approval of the State Department of Health, cause the preemptory discharge of any person who has been a patient for the period of one month.

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SEC. 83. Section 10020 of the Welfare and Institutions Code is amended to read:

10020. No person having private health care coverage shall be entitled to receive the same health care furnished or paid for by a publicly funded health care program. As used in this chapter, "publicly funded health care program" shall mean care or services rendered by a local government or any facility thereof, or health care services for which payment is made under the California Medical Assistance Program established by Chapter 7 (commencing with Section 14000) of Part 3 of this division by the State Department of Health or by its fiscal intermediary or by a carrier or organization with which said department has contracted to furnish such services or to pay providers who furnish such services. As used in this chapter, "private health care coverage" means: (a) service benefit plans under which payment is made by a carrier under contracts with physicians, hospitals, or other providers of health services rendered to employees or annuitants or family members, or under which, under certain conditions, payment is made by a carrier to the employee or annuitant or family member; (b) indemnity benefit plans under which a carrier agrees to pay certain sums of money, not in excess of actual expenses incurred, for health services; and (c) individual practice prepayment plans which offer health services in whole or in part on a prepaid basis, with professional services thereunder provided by individual physicians who agree, under such conditions as may be prescribed by the board, to accept the payments provided by the plans as full payment for covered services rendered by them.

If such person receives health care furnished or paid for by a publicly funded health care program, the carrier of his private health care coverage shall reimburse the publicly funded health care program the cost incurred in rendering such care to the extent of the benefits provided under the terms of the policy for the services rendered.

SEC. 84. Section 10053.5 of the Welfare and Institutions Code, as amended by Chapter 1298 of the Statutes of 1972, is amended to read:

10053.5. The State Department of Health or through the county department shall provide protective social services:

(a) For the care of mentally retarded and developmentally disabled patients released from state hospitals of the State Department of Health, or to prevent the unnecessary admission of mentally retarded and developmentally disabled persons to hospitals at public expense or to facilitate the release of mentally retarded and developmentally disabled patients for whom such hospital care is no longer the appropriate treatment; provided that such services may be rendered only if requested by the regional center having jurisdiction over the mentally retarded or developmentally disabled patient and if provision for such services is made in the areawide mental retardation plan.

(b) For the care of mentally disordered patients released from

state hospitals or to prevent the unnecessary admission of mentally disordered persons to hospitals at public expense or to facilitate the release of mentally disordered patients for whom such hospital care is no longer the appropriate treatment; provided that such services may be rendered only if requested by the local director of mental health and if provision for such services is made in the county Short-Doyle plan for the county.

The State Department of Health, to the extent funds are appropriated and available, shall pay for the cost of providing for care in a private home, certified by the State Department of Health, for mentally disordered, mentally retarded or developmentally disabled persons described in, and subject to the request and plan conditions of, subdivisions (a) and (b) above. The monthly rate for such private home care shall be set by the State Department of Health at an amount which will provide the best possible care at minimum cost and also insure:

(1) That the person will receive proper treatment and may be expected to show progress in achieving the maximum adjustment toward returning to community life; and

(2) That sufficient homes can be recruited to achieve the stated objectives of this section.

For all such persons without public or private financial resources who are placed in private homes at State Department of Health expense, if requested by the local director of mental health services in the case of mentally disordered persons, the State Department of Health may provide from local assistance budget funds, at a rate to be determined by the secretary of the Health and Welfare Agency, moneys necessary to furnish clothing and to meet incidental living expenses. No such moneys shall be provided by the State Department of Health for mentally retarded patients after July 1, 1971.

Any funds expended for the care of persons in a private home certified by the State Department of Health, including costs of administration and staffing and including money necessary to furnish clothing and to meet incidental living expenses, at the request of the local director of a mental health service pursuant to this section shall be expended by the State Department of Health only if the State Department of Health and the local mental health service enter a contract in accordance with the Short-Doyle Act (commencing with Section 5600) under which the county shall reimburse the State Department of Health for 10 percent of the amount expended by the State Department of Health, exclusive of such portion of the cost as is provided by the federal government.

The provision for such 10-percent county share shall be inapplicable with respect to any county with a population of under 100,000 which has not elected to participate financially in providing services under Division 5 of this code in accordance with Section 5709.5.

The State Department of Health may provide services pursuant to

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this section directly or through contract with public or private entities.

The State Department of Health, or through the county department may provide protective social services, including the cost of care in a private home pursuant to this section or in a suitable facility as specified in Section 7354, at the request of the State Department of Health, for judicially committed patients released from a state hospital on leave of absence or parole, and payments therefor shall be made from funds available to the State Department of Health for that purpose or for the support of patients in state hospitals.

SEC. 86. Section 14053 of the Welfare and Institutions Code, as amended by Chapter 32 of the Statutes of 1972, is amended to read:

14053. "Health care services" means:

1. Inpatient hospital services (other than services in a medical institution for tuberculosis or mental diseases except to the extent permitted by federal law) in and by a medical institution or facility operated by, or licensed by, the United States, one of the several states, a political subdivision of a state, the State Department of Health, or exempt from such licensure pursuant to subdivision (c) of Section 1312 of the Health and Safety Code.

2. Outpatient hospital services.

3. Laboratory and X-ray services.

4. Skilled nursing home services (other than services in a medical institution for tuberculosis or mental diseases except to the extent permitted by federal law), as defined for the purpose of securing federal approval of a plan under Title XIX of the Federal Social Security Act, to persons 21 years of age or older, or to persons under 21 years of age to the extent permitted by federal law.

5. Physicians' services, whether furnished in the office, the patient's home, a hospital, or a skilled nursing home, or elsewhere.

6. Medical care, or any other type of remedial care recognized under the laws of this state, furnished by licensed practitioners within the scope of their practice as defined by the laws of this state. Other remedial care shall include, without being limited to, treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan.

7. Home health care services.

8. Private duty nursing services.

9. Outpatient clinic services.

10. Dental services.

11. Physical therapy and related services.

12. Prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select.

13. Other diagnostic, screening, preventive, or rehabilitative services.

14. Intermediate care facility services (other than such services in

an institution for tuberculosis or mental diseases except to the extent permitted by federal law) for individuals who are determined, in accordance with Title XIX of the Federal Social Security Act, to be in need of such care.

15. Inpatient hospital services and skilled nursing home services for any individual 65 years of age or over in an institution for tuberculosis or mental diseases.

Such term shall not include, except to the extent permitted by federal law,

a. Any care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution); or

b. Any care or services for any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases.

SEC. 87. Section 14057.5 of the Welfare and Institutions Code is amended to read:

14057.5. "Contract hospital" means a nonprofit medical facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, with which the board of supervisors of a county which does not maintain a county hospital has executed a contract, currently in effect, to care for medically indigent individuals.

SEC. 91. Section 14105.5 of the Welfare and Institutions Code, as amended by Chapter 1059 of the Statutes of 1972, is amended to read:

14105.5. The director or prepaid health plans shall make no payment for services to any hospital facility which secures a license under the provisions of Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code after July 1, 1970, covering a new facility or additional bed capacity or the conversion of existing bed capacity to a different license category, unless such licensee received a favorable final decision by the voluntary area health planning agency in the area, the consumer members of a voluntary area health planning agency acting as an appeals body or the Advisory Health Council pursuant to Sections 437.7 to 438.5, inclusive, of the Health and Safety Code; or unless the licensee had filed an application for a license prior to January 1, 1970, and the application met all then-existing requirements and regulations of the appropriate state agency at the time of application including, at least, preliminary submission of plans, and if such licensee commences construction of his project prior to July 1, 1971, and if such licensee has on file with the State Department of Health a notarized affidavit from the building department having jurisdiction indicating that substantial progress on the approved project was attained by January 1, 1973, and such licensee has on file with the county recorder and State Department of Health a valid notice of construction completion indicating January 1, 1974, as the completion date; except that the State Department of Health shall extend the foregoing dates by no more than a total of one year in the case of projects where good cause has been shown why such extension should be granted. The

exception provided for in the preceding sentence with respect to applications filed prior to January 1, 1970, except for transfers executed before November 30, 1970 or after July 1, 1971, shall not apply to transferees of the applications of the original applicants.

Voluntary area health planning agencies may extend, until July 1, 1972, the date upon which applicants, qualifying under the exception in this section, shall commence construction, if the voluntary area health planning agencies declare that good cause has been shown why such extension should be granted, provided that an applicant applying for such extension had, prior to January 1, 1970, received approval of a health planning association in the county wherein the applicant is located. Applicants receiving extension of the construction commencement date shall have on file with the State Department of Health a notarized affidavit from the building department having jurisdiction indicating that substantial progress on the approved project was attained by January 1, 1974, and have on file with the county recorder and State Department of Health a valid notice of construction completion indicating January 1, 1975, as the completion date; except that the State Department of Health shall extend each of the foregoing dates by no more than a total of one year in the case of projects where good cause has been shown why such extension should be granted.

(a) For the purposes of this section, "substantial progress" is defined and evidenced as follows:

(1) For structures of three or fewer stories, completion of the foundations and footings; the structural frame; the mechanical, electrical, and plumbing rough-in; the rough flooring; the exterior walls and windows; and the finished roof.

(2) For structures of more than three stories, a contractor's schedule of work shall be filed with the State Department of Health by January 1, 1973. Every three months thereafter, until completion, evidence shall be submitted to the department that construction is progressing on that schedule.

(b) For the purposes of this section, construction of a project is deemed commenced on the date the applicant was so notified by the State Department of Health, if so notified, or on the date the applicant has completed not less than all of the following:

(1) Submission to the appropriate state agency of a written agreement executed between the applicant and a licensed general contractor to construct and complete the facility within a designated time schedule in accordance with final architectural plans and specifications approved by such agency.

(2) Obtaining such initial permits or approval for commencing work on the project as is customarily issued for projects of the scope of applicant by the governmental agency having jurisdiction over the construction.

(3) Completion of construction work on the project to such a degree as to justify and require a progress payment by the applicant to the general contractor under terms of the construction

agreement.

SEC. 92. Section 14110 of the Welfare and Institutions Code is amended to read:

14110. No payment for care or services shall be made under Medi-Cal to a medical or health care facility unless it has been certified by the department for participation, and:

(a) It is licensed by the State Department of Health; or

(b) It is licensed by a comparable agency in another state; or

(c) It is exempt from licensure; or

(d) It is operated by the Regents of the University of California.

(e) It meets the utilization review plan criteria for certification or is certified as an institutional provider of services under Title XVIII of the Federal Social Security Act and regulations issued thereunder.

Nothing in this section shall preclude payments for care for aged patients in medical facilities or institutions operated or licensed by the State Department of Health, State Department of Rehabilitation, or by the State Department of Social Welfare.

SEC. 93. Section 14113 of the Welfare and Institutions Code is amended to read:

14113. The department shall enter into cooperative arrangements with the Department of Rehabilitation and any other state agency or department responsible for health or vocational rehabilitation services in the state to insure the appropriate utilization of such services in the provision of health care and related remedial services under this chapter.

SEC. 94. Section 14118 of the Welfare and Institutions Code, as amended by Chapter 1366 of the Statutes of 1972, is amended to read:

14118. Notwithstanding any other provision of law, no provider of medical assistance under the California Medical Assistance Program shall hold itself forth as authorized to provide services to beneficiaries under the Medi-Cal program by use of:

(a) Newspapers, magazines, radio, television, books, circulars, pamphlets, or any medium of communication whether or not for compensation, or

(b) Signs or displays of any character on or near its place of business or elsewhere.

Notwithstanding the foregoing, and except as otherwise prohibited by law, any provider of medical assistance under the California Medical Assistance Program which has entered into a contract with the State Department of Health, pursuant to Chapter 8 (commencing with Section 14200) of this part, may make the benefits known to potential enrollees by means of relevant methods and materials as determined by the regulations of the department. This material must be disseminated to potential enrollees by official representatives of the contractor at the contractor's expense. The contractor shall be responsible for all presentations by such representatives and for their ethical and professional content. Examples of all printed or illustrated material prepared by the contractor shall be submitted to the department prior to

dissemination. The department shall acknowledge receipt of the printed or illustrated material within five (5) days. If notification of department disapproval is not received by the contractor within 60 days after the date of the notification from the department that the material had been received, the contractor may disseminate such material. In the event the department notifies the contractor of its disapproval, the contractor shall have the right to meet and confer with the director in order to demonstrate to him the need and reasonable basis for the distribution of such material to potential enrollees.

SEC. 94.5. Section 14124.5 of the Welfare and Institutions Code is amended to read:

14124.5. (a) The department shall adopt, amend or repeal, in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code, such reasonable rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable it to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any of the provisions of any statute of this state.

(b) All regulations heretofore adopted by the department shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the Director of Public Health, or his successor, the Director of Health.

SEC. 95. Section 14125.1 of the Welfare and Institutions Code is amended to read:

14125.1. The commission shall consist of 15 members as follows:

(a) One member who has at least five years experience in the field of health insurance or in the administration of a health care service plan.

(b) One member who is experienced in the management of a comprehensive group-practice prepayment health care service plan registered under Article 2.5 (commencing with Section 12530) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

(c) One member who is a chief executive officer of a hospital or group of hospitals subject to the provisions of Part 1.7 of Division 1 of the Health and Safety Code.

(d) One member who is a physician licensed under the provisions of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code with at least five years' experience in the practice of medicine in this state and who is currently practicing medicine in this state.

(e) Three members who are representatives of the general public as consumers of health care services, one of whom shall be a representative of a labor organization which provides its membership with a comprehensive health care plan and one of whom shall be a person eligible for health care services under this chapter.

(f) Two representatives of county government, one of whom shall be a county supervisor and one of whom shall be a county

administrative officer. Both shall be appointed with the advice of the County Supervisors Association of California.

(g) Two members to be appointed by the Senate Rules Committee to serve at its pleasure.

(h) Two members to be appointed by the Speaker of the Assembly to serve at his pleasure.

(i) The Director of Health, and the Director of Social Welfare, or their designees, shall serve as ex officio members of the commission.

SEC. 96. Section 14180 of the Welfare and Institutions Code is amended to read:

14180. There is in the State Department of Health the Medical Therapeutics and Drug Advisory Committee, hereinafter referred to as the committee.

SEC. 97. Section 14201 of the Welfare and Institutions Code, as added by Chapter 1366 of the Statutes of 1972, is amended to read:

14201. The intent of the Legislature is to provide, to the extent feasible, through the provisions of this chapter and the necessarily related provisions of Chapter 7 (commencing with Section 14000) of this part, recipients of public assistance and medically indigent aged and other persons with the opportunity to enroll in prepaid health plans. It is further intended that this legislation is to benefit the people of the State of California by:

(a) Encouraging the development of more efficient delivery of health care to Medi-Cal recipients.

(b) Reducing the inflationary costs of health care.

(c) Improving the quality of medical services rendered to those eligible enrollees as defined in this chapter and Chapter 7 (commencing with Section 14000) of this part.

(d) Reducing administrative costs of operating the Medi-Cal Act by allowing prepaid health plans to assume substantial costs of administration and utilization controls that are now assumed by the State Department of Health.

SEC. 98. Section 14251 of the Welfare and Institutions Code, as added by Chapter 1366 of the Statutes of 1972, is amended to read:

14251. "Prepaid health plan" is any carrier or association of providers of medical and health services who agree with the State Department of Health to furnish directly or indirectly health services to Medi-Cal beneficiaries on a predetermined periodic rate basis. Such association includes, but is not limited to, a multispecialty group practice or a "foundation for medical care" program. The plan may not merely indemnify for the cost of services provided. The prepaid health plan must share in the risk of providing medical and health care services.

SEC. 99. Section 14259 of the Welfare and Institutions Code, as added by Chapter 1366 of the Statutes of 1972, is amended to read:

14259. "Director" means the Director of the State Department of Health.

SEC. 100. Section 14260 of the Welfare and Institutions Code, as added by Chapter 1366 of the Statutes of 1972, is amended to read:

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14260. "Department" means the State Department of Health.

SEC. 101. Section 14301 of the Welfare and Institutions Code, as added by Chapter 1366 of the Statutes of 1972, is amended to read:

14301. No contract between the department and a prepaid health plan shall be approved unless the providers and facilities of the prepaid health plan meet the Medi-Cal program standards for participation as established by the director. In addition, a prepaid health plan shall meet the following requirements:

(a) Laboratory services are provided only in laboratories which are approved by the State Department of Health (except such laboratories as are exempt from approval under Section 1241 of the Business and Professions Code), participate in a performance testing program approved by the State Department of Health, or meet the conditions of participation under Title 18 of the Social Security Act.

(b) All institutions including, but not limited to, clinics, hospitals, and skilled nursing homes, shall be licensed by the State Department of Health, or be exempt from licensure by the State Department of Health. When appropriate, all medical personnel of the prepaid health care plan shall be licensed by their respective licensing boards.

(c) The prepaid health plan shall demonstrate to the department that it has adequate financial resources, physical facilities, administrative abilities and soundness of program design, to carry out its contractual obligations. For the purpose of this section, "adequate financial resources", as determined by the department, shall not be less than the minimum tangible net equity required of health care service plans pursuant to Section 12539 of the Government Code.

(d) The prepaid health plan shall provide no fewer than five physicians representing the four specialties of pediatrics, internal medicine, general surgery and obstetrics-gynecology, unless the department finds that in given communities it is not feasible or medically appropriate to provide all of these specialties.

(e) The prepaid health plan shall enroll Medi-Cal beneficiaries according to ratios established by the department, as appropriate to the medical needs of the population, but in no event shall the prepaid health care plan enroll more than 1,600 persons per full-time equivalent primary care physician and 1,200 persons per each full-time equivalent physician. These ratios may be adjusted upon the recommendation of the department if appropriate use is made of allied health manpower. No enrollment shall be permitted on the basis of part-time primary care physicians except for medical care foundations.

(f) The prepaid health plan shall furnish services in such a manner as to provide continuity of care and, when services are furnished by different providers, ready referral of patients to such services at such times as may be medically appropriate.

(g) A managing physician who is a primary care physician shall be provided to each enrollee, to the extent feasible, to supervise and

coordinate the enrollee's care. In the event that the enrollee becomes dissatisfied with his assigned managing physician, the plan shall make another managing physician available.

(h) All services shall be readily available at reasonable times to all enrollees. To the maximum extent feasible the prepaid health plan shall make all services readily accessible to enrollees who reside in the service area by either decentralizing the services to be provided or by providing transportation to the prepaid health plan facilities if adequate public transportation is not available.

(i) The prepaid health plan, to the extent reasonable and consistent with good medical practice, shall employ allied health personnel for furnishing of services.

(j) A prepaid health plan servicing a substantial patient population of a particular social or ethnic group, or whose primary language is other than English, shall to the extent feasible have staff of that respective linguistic or racial or ethnic group in sufficient numbers in the prepaid health care plan to service the enrollees at all times, including, but not limited to, the point of entry.

SEC. 103.5. Section 2 of Chapter 1130 of the Statutes of 1972 is amended to read:

Sec. 2. It is the intent of the Legislature that hospitals, which house patients having less than the capacity of normally healthy persons to protect themselves, and which must be completely functional to perform all necessary services to the public after a disaster, shall be designed and constructed to resist, insofar as practicable, the forces generated by earthquakes, gravity, and winds. In order to accomplish this purpose the Legislature intends to establish proper building standards for earthquake resistance based upon current knowledge, and intends that procedures for the design and construction of hospitals be subjected to independent review. It is further the intent of the Legislature that Division 12.5 (commencing with Section 15000) of the Health and Safety Code shall be administered by the State Department of Health, which shall contract for enforcement of such provisions with the Department of General Services which now successfully enforces the provisions of the "Field Act."

SEC. 103.6. Section 14 of Chapter 1228 of the Statutes of 1972 is amended to read:

Sec. 14. There is hereby appropriated to the State Department of Health from the General Fund the sum of two hundred thousand dollars ($200,000), or so much thereof as may be necessary, for the purposes of funding county retraining programs established pursuant to Section 5119 of the Welfare and Institutions Code.

SEC. 104. Section 1 of Chapter 501 of the Statutes of 1971 is amended to read:

Section 1. To the extent additional federal funds become available, the State Department of Health shall establish and maintain four regional centers for mentally retarded persons and their families pursuant to Chapter 3 (commencing with Section

38100) of Division 25 of the Health and Safety Code, as follows:

(a) One regional center to serve the Counties of Del Norte, Humboldt, Lake, and Mendocino.

(b) One regional center to serve the Counties of Napa, Sonoma and Solano.

(c) One regional center to serve Kern County and portions of counties whose boundaries are contiguous with the boundaries of Kern County.

(d) One regional center to serve the Counties of San Bernardino, Riverside, Inyo, and Mono.

SEC. 105. Section 10 of Chapter 1377 of the Statutes of 1971 is amended to read:

Sec. 10. The Department of General Services may, with the approval of the State Department of Health, lease for a term not to exceed 30 years approximately 2½ acres of state-owned real property at Metropolitan State Hospital in Norwalk provided that the lessee is required to construct facilities on the property for use of the state during the term thereof, with title to the facilities vesting in the state at the expiration of the term or earlier. Such lease may contain such other terms and conditions as the Department of General Services may deem to be in the best interest of the state.

SEC. 105.5. Section 598 of Chapter 1593 of the Statutes of 1971 is repealed.

SEC. 106. Section 2 of Chapter 1781 of the Statutes of 1971 is amended to read:

Sec. 2. As of June 30, 1972, up to but not to exceed five hundred thousand dollars ($500,000) of the unexpended balance of the appropriation made by Item 229, Budget Act of 1971, is appropriated to the State Department of Health for expenditure without regard to fiscal years by the department in carrying out the purposes of Part 3 (commencing with Section 1175) of Division 1 of the Health and Safety Code.

SEC. 107. Section 15 of Chapter 1451 of the Statutes of 1969 is amended to read:

Sec. 15. Within 90 days of the effective date of this act, the Advisory Health Council shall adopt guidelines pursuant to Section 437.7 of the Health and Safety Code. By July 1, 1970, all voluntary area health planning agencies shall adopt guidelines pursuant to Section 437.7 of such code. This act shall not apply to applicants who have filed applications for licenses, prior to January 1, 1970, which meet all requirements and regulations of the appropriate state agency existing at the time of application, including at least preliminary submission of plans, but only if such applicants commence construction of their projects prior to July 1, 1971, and have on file with the State Department of Health a notarized affidavit from the building department having jurisdiction indicating that substantial progress on the approved project was attained by January 1, 1973, and have on file with the county recorder and State Department of Health a valid notice of construction completion indicating January

1, 1974, as the completion date; except that the State Department of Health shall extend the foregoing dates by no more than a total of one year in the case of projects where good cause has been shown why such extension should be granted. Except for those transfers executed before November 30, 1970, or after July 1, 1971, the exception provided for in the preceding sentence shall not apply to transferees of the applications of such applicants.

Voluntary area health planning agencies may extend, until July 1, 1972, the date upon which applicants, qualifying under the exception in this section, shall commence construction, if the voluntary area health planning agencies declare that good cause has been shown why such extension should be granted, provided that an applicant applying for such extension had, prior to January 1, 1970, received approval of a health planning association in the county wherein the applicant is located. Applicants receiving extensions of the construction commencement date shall have on file with the State Department of Health a notarized affidavit from the building department having jurisdiction indicating that substantial progress on the approved project was attained by January 1, 1974, and have on file with the county recorder and State Department of Health a valid notice of construction completion indicating January 1, 1975, as the completion date; except that the State Department of Health shall extend each of the foregoing dates by no more than a total of one year in the case of projects where good cause has been shown why such extension should be granted.

For purposes of this section, "substantial progress" is defined and evidenced as follows:

(a) For structures of three or fewer stories, completion of the foundations and footings; the structural frame; the mechanical, electrical, and plumbing rough-in; the rough flooring; the exterior walls and windows; and the finished roof.

(b) For structures of more than three stories, a contractor's schedule of work shall be filed with the State Department of Health by January 1, 197ꝫ. Every three months thereafter, until completion, evidence shall be submitted to the department that construction is progressing on that schedule.

For purposes of this section, construction of a project is deemed commenced on the date the applicant was so notified by the State Department of Health, if so notified, or on the date the applicant has completed not less than all of the following:

(a) Submission to the appropriate state agency of a written agreement executed between the applicant and a licensed general contractor to construct and complete the project within a designated time schedule in accordance with final architectural plans and specifications approved by such agency.

(b) Obtaining such initial permits or approval for commencing work on the project as is customarily issued for projects of the scope of applicant by the governmental agency having jurisdiction over the construction.

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(c) Completion of construction work on the project to such a degree as to justify and require a progress payment by the applicant to the general contractor under terms of the construction agreement.

SEC. 108. The provisions of this act transferring the functions of the State Board of Public Health, the Health Planning Council, and the Health Review and Program Council to the Advisory Health Council shall become operative on July 1, 1973.

SEC. 109. This act shall become operative on July 1, 1973.

SEC. 110. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Under Reorganization Plan No. 1 of 1970, the State Department of Health on July 1, 1973, succeeds to and becomes vested with all the duties, powers, purposes, responsibilities and jurisdiction of the Department of Mental Hygiene, the Department of Public Health, the Department of Health Care Services, the Department of Social Welfare with respect to social service functions thereof, the Department of Rehabilitation with respect to its alcoholism program, the Department of Consumer Affairs with respect to the healing arts boards, and the State Board of Public Health with respect to its powers to issue, amend, and revoke, rules and regulations and licenses or permits.

Upon such reorganization plan becoming operative, the Legislature enacted Chapter 1593 of the Statutes of 1971 to effect such changes in the statutes as was necessary to reflect the changes made by the reorganization plan. However, various other statutes were enacted by the Legislature at both its 1971 and 1972 sessions affecting the various state departments and other units of state government, and the new State Department of Health, and the reorganization plan itself, all of which require the immediate enactment of this act to conform the statutes to effectively execute the reorganization plan. Unless this act becomes effective immediately, various duties, powers, purposes, responsibilities, and the jurisdiction of the State Department of Health will be subject to confusion, doubt or legal challenge by both the public and by those officers and employees of the State Department of Health who are required to carry out the intent of the Legislature. In order that this situation may be alleviated at the earliest possible time, it is necessary for this act to take effect immediately.

SEC. 110.5. If both this act and Assembly Bill No. 423 are enacted into law at the 1973–74 Regular Session of the Legislature, Sections 24 and 25 of this act shall not become operative.

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incorporated in the form set forth in Section 15.5 of this bill, and that Section 15 of this bill shall not be operative. If Assembly Bill No. 1103 and Senate Bill No. 601 are not chaptered or if Assembly Bill No. 1103 or Senate Bill No. 601 is chaptered after this bill, Section 15 of this bill shall be operative and Section 15.5 of this bill shall not become operative.

SEC. 62. There is hereby appropriated from the General Fund to the California Job Creation Program Board the sum of one million dollars ($1,000,000) to be used without regard to fiscal year for the purposes of this act.

CHAPTER 1212

An act to amend Sections 6446.5, 6880.46, 13658.5, 16721, 16735, and 19699.23 of the Education Code, to amend Sections 11012, 11200, 11501, 11552, 11556, 12538.4, 12803, 15702.1, 29873, and 29874 of the Government Code, to amend Sections 249, 255, 258, 259, 261, 265, 266, 268, 269, 417, 418, 418.1, 1130, 1156, 3279, 3287, 3299, 38056, 38200, 38250, 38251, 38252, and 38253 of, and to add Sections 249.2, 249.3, 249.4, 417.7, 417.8, 417.9, 1142, 1143, 1144, 3289, 3290, 3291, 38250.1, 38250.2, and 38250.3 to, the Health and Safety Code, to amend Section 1690.1 of the Labor Code, to amend Section 13020 of the Penal Code, to amend Sections 7057, 17061, and 19268 of the Revenue and Taxation Code, to amend Sections 130, 133, 134, 301, 302, 303, 305, 306, 308, 309, 310, 311, 312, 315, 316, 317, 318, 320, 321, 322, 323, 325, 326, 409, 410, 605.5, 821.3, 1030, 1030.5, 1031, 1032.5, 1087, 1095, 1282, 1326, 1327, 1328, 1329, 1330, 1331, 1332, 1332.5, 1338, 1339, 1341, 1376, 1379, 1501, 1536, 1537, 1585, 1585.5, 1586, 1587, 1589, 1601, 2110, 2110.3, 2111, 2113, 2602, 2604, 2606, 2657, 2701, 2706, 2706.1, 2707, 2707.1, 2707.2, 2707.3, 2707.4, 2707.5, 2707.6, 2710, 2711, 2714, 2736, 2739, 2902, 3009, 3010, 3011, 3012, 3013, 3014, 3125, 3125.5, 3126, 3127, 3128, 3129, 3131, 3251, 3252, 3253, 3254, 3254.5, 3255, 3257, 3258, 3260, 3262, 3265, 3266, 3267, 3268, 3269, 3271, 3504, 3654, 3655, 3656, 3701, 3751, 4654, 4655, 4656, 4701, 4751, and 5202 of, and the heading of Article 1 (commencing with Section 301) of Chapter 2 of Part 1 of Division 1 of, to amend and renumber Sections 3654.1 and 3654.2 of, to add Sections 301.3, 301.4, 301.6, 301.7, 303.5, 305.1, 305.6, 306.1, 308.1, 309.1, 310.1, 311.3, 311.5, 312.1, 314, 319, 320.1, 321.1, 322.1, 701.5, 801.5, 907, 1701.5, 3267.1, 3268.1, 3654.1, and 3654.4 to, and to repeal Sections 313, 5012, and 5256 of, the Unemployment Insurance Code, and to amend Sections 727, 5174, 5604, 5701, 5702, 5702.1, 5712, 5714, 5714.1, 5715, 5718, 5719.1, 5751, 7354, 7356, 8200, 10020, 10053, 10053.2, 10054, 10055, 10056, 10062, 10550, 10551, 10557, 10560, 10600, 10602.1, 10603, 10605, 10608, 10617, 10650, 10652, 10653, 10654, 10655, 10700, 10705, 10809.5, 10810, 10850, 10906, 11013, 11180, 11181, 11183, 11205, 11300, 11301, 11306, 11307, 11308.7, 11308.8, 11325, 11403, 12205, 13500, 13933, 14024, 14105,

14110, 14117, 14120, 14124.1, 14124.2, 14157, 14161, 14318, 15153.5, 16575, 18200.1, and 18454 of the heading of Chapter 2 (commencing with Section 10550) of Part 2 of Division 9 of, and the heading of Chapter 3 (commencing with Section 10700) of Part 2 of Division 9 of, to amend and renumber Section 10053.5 of, to add Sections 21, 5700.1, 5700.2, 5700.3, 10053.5, 10053.6, 10053.7, 10552.5, 10600.1, 10600.2, 10600.3, 11250.5, 14101.5, 14102, 14103, and 14103.1 to, and to repeal Sections 20, 10560.5, 14105, and 18205 of, the Welfare and Institutions Code, relating to the Department of Benefit Payments.

[Approved by Governor October 2, 1973. Filed with Secretary of State October 2, 1973.]

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

SECTION 1. The purposes of this act are:

(a) To improve the efficiency of California's collection of taxes and of benefit computations relating to the unemployment and disability insurance programs, and the payment of money to welfare recipients.

(b) To provide better services in the payment of money to such recipients.

(c) To improve California's ability to detect and prevent improper money payments to such recipients.

(d) To establish centralized control and fiscal accountability and responsibility for the supervision and administration of fiscal affairs, and to eliminate duplication and fragmentation of these state governmental functions.

To carry out these purposes, this act:

(a) Establishes a Department of Benefit Payments to handle fiscal affairs, supervise and administer the payment of aid, and make tax collections and benefit computations in the unemployment insurance and disability insurance programs.

(b) Consolidates and integrates in the Department of Benefit Payments functions relating to fiscal affairs now scattered among several state departments and agencies as follows:

(1) Transfers from the State Department of Health Care Services to the Department of Benefit Payments the payments to and audits of fiscal intermediaries, and the recovery bureau.

(2) Transfers from the State Department of Mental Hygiene to the Department of Benefit Payments the claims processing and payment responsibilities for local mental health programs and county audits.

(3) Transfers from the State Department of Public Health to the Department of Benefit Payments the payment and audit responsibilities for crippled children's services, regional diagnostic centers for developmental disabilities, family planning services, renal dialysis, tuberculosis subsidies, and local health department

subventions.

(c) Separates program responsibility from fiscal accountability and responsibility, by transferring fiscal affairs to the Department of Benefit Payments and retaining program responsibility in other state departments and agencies.

SEC. 2. Section 6446.5 of the Education Code, as added by Chapter 1147 of the Statutes of 1972, is amended to read:

6446.5. So much of the moneys appropriated for allowances pursuant to Section 6445.13, as is needed, shall be for the purpose of providing state funds to be matched with available federal funds to provide public services for those pupils eligible to receive such services. Federal reimbursement shall be obtained by the Department of Benefit Payments for services to children of those families, designated by the State Department of Education, eligible for federal financial participation. The Department of Benefit Payments and the State Department of Education shall enter into a contract wherein the Department of Education agrees to provide educational services for such pupils wherein the Department of Benefit Payments agrees to pay to the Department of Education all costs of services to participants.

SEC. 3. Section 6880.46 of the Education Code, as amended by Section 27 of Chapter 1093 of the Statutes of 1972, is amended to read:

6880.46. An Advisory Committee on Development Centers for Handicapped Pupils shall be established to aid in setting standards for admission to centers, and to advise the Department of Education in the administration and operation of centers. The advisory committee shall consist of one member from the Department of Benefit Payments to be appointed by the Director of Benefit Payments, one member from the State Department of Health to be appointed by the Director of Health, one member from the Department of Education to be appointed by the Director of Education, one lay member from the general public and one parent of a handicapped pupil to be appointed by the Director of Education, and four members each from a school district or a county superintendent of schools office participating in the program to be appointed by the Director of Education. The member from the Department of Education shall serve as secretary of the committee.

The members of the committee shall serve without compensation, except that they may receive their actual and necessary expenses incurred in the performance of their duties and responsibilities, including travel expenses.

SEC. 4. Section 13658.5 of the Education Code, as added by Chapter 319 of the Statutes of 1972, is amended to read:

13658.5. The Director of Benefit Payments is the administrator of the system of unemployment insurance, as provided in Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code.

SEC. 5. Section 16721 of the Education Code, as added by Chapter 670 of the Statutes of 1972, is amended to read:

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16721. The Department of Education shall assist the State Departments of Human Resources Development, Benefit Payments, and Health by offering training and job opportunities in local child development programs for recipients of public assistance and to those persons who qualify under federal regulations as former, current or potential recipients of public assistance.

SEC. 6. Section 16721 of the Education Code, as added by Chapter 670 of the Statutes of 1972, is amended to read:

16721. The Department of Education shall assist the State Departments of Employment Development, Benefit Payments, and Health by offering training and job opportunities in local child development programs for recipients of public assistance and to those persons who qualify under federal regulations as former, current or potential recipients of public assistance.

SEC. 7. Section 16735 of the Education Code, as added by Section 24 of Chapter 670 of the Statutes of 1972, is amended to read:

16735. The Governor shall appoint an advisory committee composed of one representative from the State Advisory Health Council, one representative from the Department of Human Resources Development, one representative from the State Board of Education, one representative from the State Benefit Payments Board, one representative of the Director of Education, one representative of the Director of Benefit Payments, one representative of the Director of Health, and one representative of private education, one representative of child welfare, one representative of private health care, one representative of a proprietary child care agency, one representative of a community action agency qualified under Title II of the Economic Opportunity Act of 1969, and five parents of children participating in the program appointed from names selected by a democratic process to assure representation of the parents of the children being served, and three persons representing professional or civic groups or public or nonprofit private agencies, organizations or groups concerned with child development programs.

The advisory committee shall assist the Department of Education in developing a state plan for child development programs pursuant to this division.

The advisory committee shall continually evaluate the effectiveness of such programs and shall report thereon at each regular session of the Legislature.

A "proprietary child care agency" is an organization or facility providing child care, which is operated for profit.

SEC. 8. Section 16735 of the Education Code, as added by Section 24 of Chapter 670 of the Statutes of 1972, is amended to read:

16735. The Governor shall appoint an advisory committee composed of one representative from the State Advisory Health Council, one representative from the Department of Employment Development, one representative from the State Board of Education, one representative from the State Benefit Payments

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Board, one representative of the Director of Education, one representative of the Director of Benefit Payments, one representative of the Director of Health, and one representative of private education, one representative of child welfare, one representative of private health care, one representative of a proprietary child care agency, one representative of a community action agency qualified under Title II of the Economic Opportunity Act of 1969, and five parents of children participating in the program appointed from names selected by a democratic process to assure representation of the parents of children being served, and three persons representing professional or civic groups or public or nonprofit private agencies, organizations or groups concerned with child development programs.

The advisory committee shall assist the Department of Education in developing a state plan for child development programs pursuant to this division.

The advisory committee shall continually evaluate the effectiveness of such programs and shall report thereon at each regular session of the Legislature.

A "proprietary child care agency" is an organization or facility providing child care, which is operated for profit.

SEC. 9. Section 19699.23 of the Education Code is amended to read:

19699.23. This article shall be administered by the State Allocation Board. The board shall adopt such rules and regulations as it deems necessary to carry out the purposes of this article. The rules and regulations of the board shall establish a system of priorities to determine the relative necessity to establish children's center facilities by a local agency. In establishing priorities with regard to the outlay of capital funds for the construction of new children's centers, or with regard to the rental or leasing of facilities for new centers, the board shall give special consideration to school districts as described under subdivision (a) of Section 6461 which are also certified by the State Department of Health as containing substantial numbers of families who are recipients of aid to families with dependent children or who are former or potential recipients of such aid and who might reasonably be expected to improve their ability to be self-supporting if child care services are made available. The Department of Benefit Payments shall provide the State Department of Health with any information in its possession necessary for the administration of this section.

SEC. 10. Section 11012 of the Government Code is amended to read:

11012. Whenever any state agency, including but not limited to state agencies acting in a fiduciary capacity, is authorized to invest funds, or to sell or exchange securities, prior approval of the Department of Finance to the investment, sale or exchange shall be secured.

Every state agency shall furnish the Department of Finance with

such reports and in such form, relating to the funds or securities, their acquisition, sale or exchange, as may be requested by the Department of Finance from time to time.

This section does not apply to the following state agencies:

(a) Any state agency when issuing or dealing in securities authorized to be issued by it.

(b) The Treasurer.

(c) The Regents of the University of California.

(d) Any state department with respect to funds administered under the Unemployment Insurance Code.

(e) Department of Veterans Affairs.

(f) Hastings College of Law.

(g) Board of Administration of the California Public Employees' Retirement System.

(h) State Compensation Insurance Fund.

(i) California Toll Bridge Authority and Department of Transportation when acting in accordance with bond resolutions adopted under the California Toll Bridge Authority Act prior to the effective date of this section.

(j) Teachers' Retirement Board of the State Teachers' Retirement System.

SEC. 11. Section 11200 of the Government Code is amended to read:

11200. The Governor, upon recommendation of the director of the following state departments, may appoint not to exceed two chief deputies for the Directors of the Departments of Finance, Transportation, Benefit Payments, and General Services, and not to exceed one chief deputy for the Directors of the Departments of Food and Agriculture, Insurance, Human Resources Development, Motor Vehicles, Consumer Affairs, and Water Resources.

The deputies provided for in this section shall be in addition to those authorized by any other law.

SEC. 12. Section 11200 of the Government Code is amended to read:

11200. The Governor, upon recommendation of the director of the following state departments, may appoint not to exceed two chief deputies for the Directors of the Departments of Finance, Transportation, Benefit Payments, and General Services, and not to exceed one chief deputy for the Directors of the Departments of Employment Development, Food and Agriculture, Insurance, Motor Vehicles, Consumer Affairs, and Water Resources.

The deputies provided for in this section shall be in addition to those authorized by any other law.

SEC. 13. Section 11501 of the Government Code, as amended by Chapter 749 of the Statutes of 1972, is amended to read:

11501. (a) The procedure of any agency shall be conducted pursuant to the provisions of this chapter only as to those functions to which this chapter is made applicable by the statutes relating to the particular agency.

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(b) The enumerated agencies referred to in Section 11500 are:
Board of Dental Examiners of California.
Board of Medical Examiners of the State of California and the district review committees.
Board of Osteopathic Examiners of the State of California.
California Board of Nursing Education and Nurse Registration.
State Board of Optometry.
California State Board of Pharmacy.
State Department of Health.
Board of Examiners in Veterinary Medicine.
State Board of Accountancy.
California State Board of Architectural Examiners.
State Board of Barber Examiners.
State Board of Registration for Professional Engineers.
Registrar of Contractors.
State Board of Cosmetology.
State Board of Funeral Directors and Embalmers.
Structural Pest Control Board.
Department of Navigation and Ocean Development.
Director of Consumer Affairs.
Bureau of Collection and Investigative Services.
State Fire Marshal.
State Board of Registration for Geologists.
Director of Food and Agriculture.
Labor Commissioner.
Real Estate Commissioner.
Commissioner of Corporations.
Department of Benefit Payments.
State Benefit Payments Board.
Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun.
Board of Pilot Commissioners for Humboldt Bay and Bar.
Board of Pilot Commissioners for the Harbor of San Diego.
Fish and Game Commission.
State Board of Education.
Insurance Commissioner.
Savings and Loan Commissioner.
State Board of Dry Cleaners.
Board of Behavioral Science Examiners.
State Board of Chiropractic Examiners.
State Board of Guide Dogs for the Blind.
Department of Aeronautics.
Board of Administration, Public Employees' Retirement System.
Department of Motor Vehicles.
Bureau of Home Furnishings.
Cemetery Board.
Department of Conservation.
Department of Water Resources acting pursuant to Section 414 of the Water Code.

Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.

Certified Shorthand Reporters Board.

Bureau of Repair Services.

California State Board of Landscape Architects.

Department of Alcoholic Beverage Control.

California Horse Racing Board.

School districts under Section 13443 of the Education Code.

State Fair Employment Practice Commission.

Bureau of Employment Agencies.

SEC. 14. Section 11552 of the Government Code, as amended by Chapter 1253 of the Statutes of 1972, is amended to read:

11552. An annual salary of thirty thousand dollars ($30,000) shall be paid to each of the following:

(a) Superintendent of Banks
(b) Commissioner of Corporations
(c) Insurance Commissioner
(d) Director of Transportation
(e) Real Estate Commissioner
(f) Savings and Loan Commissioner
(g) Director of Benefit Payments
(h) Director of Water Resources
(i) Director of Food and Agriculture
(j) Director of Corrections
(k) Director of General Services
(*l*) Director of Industrial Relations
(m) Director of Motor Vehicles
(n) Director of Youth Authority
(o) Commissioner, California Highway Patrol
(p) Members of the Public Utilities Commission
(q) Director of Human Resources Development
(r) Director of Alcoholic Beverage Control.

SEC. 15. Section 11552 of the Government Code, as amended by Chapter 1253 of the Statutes of 1972, is amended to read:

11552. An annual salary of thirty thousand dollars ($30,000) shall be paid to each of the following:

(a) Superintendent of Banks
(b) Commissioner of Corporations
(c) Insurance Commissioner
(d) Director of Transportation
(e) Real Estate Commissioner
(f) Savings and Loan Commissioner
(g) Director of Benefit Payments
(h) Director of Water Resources
(i) Director of Food and Agriculture
(j) Director of Corrections
(k) Director of General Services
(*l*) Director of Industrial Relations
(m) Director of Motor Vehicles

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(n) Director of Youth Authority
(o) Commissioner, California Highway Patrol
(p) Members of the Public Utilities Commission
(q) Director of Employment Development
(r) Director of Alcoholic Beverage Control.

SEC. 16. Section 11552 of the Government Code, as amended by Chapter 1253 of the Statutes of 1972, is amended to read:

11552. An annual salary of thirty thousand dollars ($30,000) shall be paid to each of the following:

(a) Superintendent of Banks
(b) Commissioner of Corporations
(c) Director of Department of Human Resources Development
(d) Insurance Commissioner
(e) Director of Transportation
(f) Real Estate Commissioner
(g) Savings and Loan Commissioner
(h) Director of Benefit Payments
(i) Director of Water Resources
(j) Director of Food and Agriculture
(k) Director of General Services
(l) Director of Industrial Relations
(m) Director of Motor Vehicles
(n) Commissioner, California Highway Patrol
(o) Members of the Public Utilities Commission
(p) Director of Alcoholic Beverage Control.

SEC. 17. Section 11552 of the Government Code, as amended by Chapter 1253 of the Statutes of 1972, is amended to read:

11552. An annual salary of thirty thousand dollars ($30,000) shall be paid to each of the following:

(a) Superintendent of Banks
(b) Commissioner of Corporations
(c) Director of Employment Development
(d) Insurance Commissioner
(e) Director of Transportation
(f) Real Estate Commissioner
(g) Savings and Loan Commissioner
(h) Director of Benefit Payments
(i) Director of Water Resources
(j) Director of Food and Agriculture
(k) Director of General Services
(l) Director of Industrial Relations
(m) Director of Motor Vehicles
(n) Commissioner, California Highway Patrol
(o) Members of the Public Utilities Commission
(p) Director of Alcoholic Beverage Control.

SEC. 18. Section 11556 of the Government Code, as amended by Chapter 590 of the Statutes of 1972, is amended to read:

11556. An annual salary of twenty-five thousand dollars ($25,000) shall be paid to each of the following:

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(a) Director of Navigation and Ocean Development
(b) Director, Office of Emergency Services
(c) Director, Department of Housing and Community Development
(d) Members of the Adult Authority
(e) Members of the Board of Equalization
(f) Members of the State Water Resources Control Board
(g) Members of the Youth Authority Board
(h) State Fire Marshal.

SEC. 19. Section 11556 of the Government Code, as amended by Chapter 590 of the Statutes of 1972, is amended to read:

11556. An annual salary of twenty-five thousand dollars ($25,000) shall be paid to each of the following:
(a) Director of Navigation and Ocean Development
(b) Director, Office of Emergency Services
(c) Director, Department of Housing and Community Development
(d) Members of the Parole Authority
(e) Members of the Board of Equalization
(f) Members of the State Water Resources Control Board
(g) State Fire Marshal.

SEC. 20. Section 12538.4 of the Government Code, as amended by Chapter 1313 of the Statutes of 1972, is amended to read:

12538.4. Upon registration, each health care service plan shall pay a registration fee of eight cents ($0.08) for each individual or family unit covered as of the close of its last accounting year: except that the minimum registration fee shall be one hundred dollars ($100) as it is the legislative intent that this measure be self-supporting. Any prepaid drug plan entered into by the State Department of Health for recipients of public assistance shall not be subject to such registration fee.

SEC. 21. Section 12803 of the Government Code, as added by Section 4 of Chapter 333 of the Statutes of 1972, is amended to read:

12803. The Human Relations Agency is hereby renamed the Health and Welfare Agency. The Health and Welfare Agency consists of the following departments: Benefit Payments; Rehabilitation; Health; Human Resources Development; the Youth Authority; and Corrections.

SEC. 22. Section 12803 of the Government Code, as added by Section 4 of Chapter 333 of the Statutes of 1972, is amended to read:

12803. The Human Relations Agency is hereby renamed the Health and Welfare Agency. The Health and Welfare Agency consists of the following departments: Benefit Payments; Health; Employment Development; Rehabilitation; the Youth Authority; and Corrections.

SEC. 23. Section 15702.1 of the Government Code is amended to read:

15702.1. The Franchise Tax Board is authorized to delegate to the Department of Benefit Payments which is authorized to accept,

exercise, and perform, the powers and duties necessary to administer the reporting, collection, refunding, and enforcement of taxes required to be withheld by employers under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code. The Franchise Tax Board is authorized to delegate to the California Unemployment Insurance Appeals Board which is authorized to accept, exercise, and perform, under rules it adopts, the powers and duties to administer appeals and petitions relating to such provisions of Part 10. The delegation to the Department of Benefit Payments shall not, however, include the power and duty of the Franchise Tax Board to adopt rules and regulations.

SEC. 24. Section 29873 of the Government Code is amended to read:

29873. The county shall submit its application to the Department of Benefit Payments. The application shall be in such form and show such facts as are prescribed by the Department of Benefit Payments and the Department of Finance. If the Department of Benefit Payments approves the application, it shall transmit the application and a statement of its approval to the Department of Finance.

SEC. 25. Section 29874 of the Government Code is amended to read:

29874. If the Department of Finance determines that the purchase will tend to effect the purpose of this article, and that the county is eligible to make application, it may with the approval of the State Board of Control purchase in the name of the state registered warrants of the county in the amount specified in the application or in any lesser amount agreed to by the county and approved by the Department of Benefit Payments.

SEC. 26. Section 249 of the Health and Safety Code, as added by Section 2 of Chapter 27 of the Statutes of 1972, is amended to read:

249. The State Department of Health shall establish and administer a program of services for physically defective or handicapped persons under the age of 21 years, in cooperation with the federal government through its appropriate agency or instrumentality, for the purpose of developing, extending and improving such services. The department shall receive all funds made available to it by the federal government, the state, its political subdivisions or from other sources. The department shall have power to supervise those services included in the state plan which are not directly administered by the state. The department shall cooperate with the medical, health, nursing and welfare groups and organizations concerned with the program, and any agency of the state charged with the administration of laws providing for vocational rehabilitation of physically handicapped children.

The reference to "the age of 21 years" in this section is unaffected by Section 1 of Chapter 1748 of the Statutes of 1971 or any other provision of that chapter.

SEC. 27. Section 249.2 is added to the Health and Safety Code, to read:

249.2. The Department of Benefit Payments succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the State Department of Health with respect to moneys, funds, and appropriations available to the State Department of Health for the purposes of processing, audit, and payment of claims received for the purposes of this article, and such moneys, funds, and appropriations shall be made available to the Department of Benefit Payments by the Director of Health for the purposes of such processing, audit, and payment of claims after such moneys, funds, and appropriations have been appropriated to or received by the State Department of Health.

SEC. 28. Section 249.3 is added to the Health and Safety Code, to read:

249.3. The Department of Benefit Payments shall have the possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Health in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the Department of Benefit Payments by Section 249.2.

SEC. 29. Section 249.4 is added to the Health and Safety Code, to read:

249.4. All officers and employees of the Director of Health who on the operative date of this section are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the Department of Benefit Payments by Section 249.2 shall be transferred to the Department of Benefit Payments. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the Department of Benefit Payments pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 30. Section 255 of the Health and Safety Code is amended to read:

255. The department shall establish uniform standards of financial eligibility for treatment services under the crippled children's program, including a uniform formula for the repayment for services rendered by the program. All counties shall use the uniform standards for financial eligibility and uniform formula for repayment established by the department. All repayments shall be used in support of the crippled children's program.

SEC. 31. Section 258 of the Health and Safety Code is amended to read:

258. A county of under 200,000 population, administering its county program jointly with the state department, shall forward to the State Department of Health a statement certifying the family of the handicapped child as financially eligible for treatment services. The State Department of Health shall authorize necessary services within the limits of available funds. Payment for services shall be made by the Department of Benefit Payments, with reimbursement

from the county for its proportionate share as specified in this article.

SEC. 32. Section 259 of the Health and Safety Code is amended to read:

259. The Department of Benefit Payments may, without the possession of a county certification, pay the expenses for services required by any physically handicapped child out of any funds received by it through gift, devise, or bequest or from private, state, federal or other grant or source.

The department may authorize or contract with any person or institution properly qualified to furnish services to handicapped children. The Department of Benefit Payments may pay for services out of any funds appropriated for the purpose or from funds it may receive by gift, devise or bequest.

The Department of Benefit Payments may receive gifts, legacies, and bequests and expend them for the purpose of this article, but not for administrative expense.

SEC. 33. Section 261 of the Health and Safety Code is amended to read:

261. Upon the request of another state or of a federal agency, the Department of Benefit Payments may pay the expenses of services required by any physically handicapped child who is not a resident of the state; provided, that the cost of such services is fully covered by special grants or allotments received from such state or federal agency for that purpose.

SEC. 34. Section 265 of the Health and Safety Code is amended to read:

265. Annually the board of supervisors of each county shall appropriate for services for handicapped children of the county, including diagnosis, treatment, and therapy services for physically handicapped children in public schools, exclusive of administrative costs, a sum of money not less than that represented by a rate of one-tenth of one mill ($0.0001) on each dollar on the assessed valuation of the taxable property in the county, except that whenever the department on or before May 1st of any year certifies to the board of supervisors a smaller amount needed for such purposes in that county, the latter shall be the minimum amount appropriable for expenditure therefor in that county during the next succeeding fiscal year.

The state shall appropriate funds sufficient to bring each county program to twenty thousand dollars ($20,000) or four-tenths of one mill ($0.0004), whichever is greater, except if the county has appropriated less than one-tenth mill ($0.0001) as provided in this section.

Nothing in this section shall prevent a county board of supervisors from appropriating additional money for services to handicapped children, and the state shall be obligated to match such appropriations in a ratio of three dollars ($3) for one dollar ($1) of county money up to a maximum county appropriation of two-tenths of a mill ($0.0002) of assessed valuation upon a determination by the

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department that a need based on departmental priorities exists for such supplemental state and county funds.

Expenditures for services shall represent a concurrent obligation against state and county funds according to the method of reimbursement specified in this section.

The state shall reimburse counties quarterly on a 3:1 matching basis for county expenditures, provided that the state quarterly payment shall not exceed by more than 10 percent the total state funds allocated quarterly to each county, except as provided in Section 266.

Expenditures made to reimburse counties for the state's share of the cost of such services shall be charged to the fiscal year in which the county issues its warrant in payment of such services. Expenditures made by the state on behalf of counties for the cost of such services shall be charged to the fiscal year in which the warrant is issued by the State Controller.

Federal grant funds allocated for the support of the crippled children's program shall be used for the purpose of state matching of county appropriations for services except for the cost of the administration of the program by the department and the Department of Benefit Payments.

State matching dollars for services for handicapped children shall not exceed the amount actually appropriated for the program.

SEC. 35. Section 266 of the Health and Safety Code is amended to read:

266. For those counties with a total appropriation of county and state funds not exceeding one hundred fifty thousand dollars ($150,000) and upon the expenditure of county funds equivalent to a county appropriation of two-tenths mill ($0.0002), the Department of Benefit Payments may from state-appropriated funds pay for services for cases deemed by the State Department of Health to represent emergencies or cases where medical care cannot be delayed without great harm to the child.

SEC. 36. Section 268 of the Health and Safety Code is amended to read:

268. The state and the counties will share in the cost of administration of the crippled children's program at the local level. The director shall establish the standards for administration, staffing and local operation of the program subject to reimbursement by the state. Reimbursable administrative costs, to be paid by the state to counties, shall not exceed 4.1 percent of the gross total expenditures for diagnosis, treatment and therapy by counties as specified in Section 265.

SEC. 37. Section 269 of the Health and Safety Code is amended to read:

269. The department shall require of participating local governments the provision of program data including, but not limited to, the number of children treated, the kinds of disabilities, and the costs of treatment, to enable the department, the

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Department of Benefit Payments, the Department of Finance, and the Legislature to evaluate in a timely fashion and to adequately fund the crippled children's program.

SEC. 38. Section 417 of the Health and Safety Code as amended by Chapter 1416 of the Statutes of 1972, is amended to read:

417. (a) Up to four regional dialysis centers with up to two in the northern and up to two in the southern part of the state, shall be established for the treatment of persons suffering from chronic uremia. Each such center shall be located in a metropolitan area and shall have an affiliation with a large hospital or medical school, but shall not be necessarily a physical part of such institution. These institutions, however, shall be able to provide a full range of medical, surgical and rehabilitation services. The Department of Benefit Payments shall only act as a granting agency for state funds which are appropriated for the establishment and the continuation of the four centers. The State Department of Health, upon the advice of the review committee which is provided for by Section 417.3, may contract with any such hospital or medical care institution for the administration and operation of one of the regional dialysis centers. It is not the intent of this section that any new hospital or medical school be established.

(b) Any moneys appropriated by the act amending this section at the 1972 Regular Session of the Legislature may be used either in existing dialysis and kidney transplantation programs for children or to establish new programs for such purposes. Any new or existing dialysis center funded pursuant to this subdivision shall provide for children the same center dialysis, home dialysis, and outpatient clinic services as are provided under Section 417.6. Any new center funded pursuant to this subdivision shall be designated as a pediatric renal failure center. Funds granted for aid to children under the provisions of this subdivision shall be based upon need as determined by the Renal Dialysis Review Committee established pursuant to Section 417.3 and an evaluation by the State Department of Health of a county's ability to fund their one-fourth share of a child's care under the Crippled Children's Services Program. Such funds shall only cover costs not recoverable from direct or third party payments. A pediatric renal failure center may use funds provided under this subdivision for payment of costs for kidney transplantation services at any hospital which is authorized to perform these services by the state department. For purposes of this subdivision, a child is any person 18 years of age or under.

SEC. 39. Section 417.7 is added to the Health and Safety Code, to read:

417.7. The Department of Benefit Payments succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the State Department of Health with respect to the payment of grants to and audit responsibility for regional dialysis centers under this article and for home dialysis training centers under Article 7.8 (commencing with Section 418) of Chapter

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2, Part 1, Division 1. Moneys, funds, and appropriations available to the State Department of Health for the purposes of this section shall be made available to the Department of Benefit Payments by the Director of Health for the purposes of this section after such moneys, funds, and appropriations have been appropriated to or received by the State Department of Health.

SEC. 40. Section 417.8 is added to the Health and Safety Code, to read:

417.8. The Department of Benefit Payments shall have the possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Health in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the Department of Benefit Payments by Section 417.7.

SEC. 41. Section 417.9 is added to the Health and Safety Code, to read:

417.9. All officers and employees of the Director of Health who on the operative date of this section are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the Department of Benefit Payments by Section 417.7 shall be transferred to the Department of Benefit Payments. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the Department of Benefit Payments pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 42. Section 418 of the Health and Safety Code is amended to read:

418. Up to three home dialysis training centers shall be established for the purpose of training persons suffering from chronic uremia for home dialysis. Each such center shall have an affiliation with a large hospital or medical school, but shall utilize the most economical facilities for treatment. These institutions, however, shall be able to provide a full range of home dialysis training services. The Department of Benefit Payments shall only act as a granting agency for state funds which are appropriated for the establishment and the continuation of the three centers. The State Department of Health and the review committee established pursuant to Section 417.3 shall exercise over the home dialysis training centers the same powers they exercise, pursuant to Article 7.7 (commencing with Section 417) of this chapter, over regional dialysis centers.

SEC. 43. Section 418.1 of the Health and Safety Code is amended to read:

418.1. Each center shall contain approximately four dialysis bed units. The Department of Benefit Payments shall grant to each such center fifty thousand dollars ($50,000) during the first year, twenty-five thousand dollars ($25,000) during the second year, and twelve thousand five hundred dollars ($12,500) during the third year. The Department of Benefit Payments shall grant to each such

center not to exceed five thousand dollars ($5,000) in the first year for the purchasing or leasing of equipment and not to exceed two thousand five hundred dollars ($2,500) in the first year for construction or remodeling of the physical facility.

SEC. 44. Section 1130 of the Health and Safety Code is amended to read:

1130. The State Department of Health, after consultation with and approval by the Conference of Local Health Officers, shall by regulations establish standards of education and experience for professional and technical personnel employed in local health departments and for the organization and operation of the local health departments. The Director of Health may include standards for the maintenance of records of services which shall be reported to him in a manner and at such times as he may specify. The Director of Benefit Payments may include standards for the maintenance of records of finances and expenditures, which shall be reported to him in a manner and at such times as he may specify. The Director of Benefit Payments shall furnish the Director of Health with such information obtained under this section as the Director of Health shall require.

SEC. 45. Section 1142 is added to the Health and Safety Code, to read:

1142. The Department of Benefit Payments succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the State Department of Health with respect to the processing, audit, and payment of funds appropriated for the purposes of this article to the administrative bodies of qualifying local health departments. Moneys, funds, and appropriations available to the State Department of Health for the purposes of this section shall be made available to the Department of Benefit Payments by the Director of Health for the purposes of this section after such moneys, funds, and appropriations have been appropriated to or received by the State Department of Health.

SEC. 46. Section 1143 is added to the Health and Safety Code, to read:

1143. The Department of Benefit Payments shall have the possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Health in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the Department of Benefit Payments by Section 1142.

SEC. 47. Section 1144 is added to the Health and Safety Code, to read:

1144. All officers and employees of the Director of Health who on the operative date of this section are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the Department of Benefit Payments by Section 1142 shall be transferred to the Department of Benefit Payments. The status, positions, and rights of such persons

shall not be affected by the transfer and shall be retained by them as officers and employees of the Department of Benefit Payments pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 48. Section 1156 of the Health and Safety Code is amended to read:

1156. The basic and per capita allotments shall be paid quarterly to the administrative body of each qualifying local health department. Each quarterly payment may be adjusted on a basis of the actual expenditures during the previous quarter, if such adjustment is necessary to maintain the minimum proportional relationship of state and local expenditures as outlined in Section 1154. The Department of Benefit Payments shall certify to the State Controller the amounts to be paid to each local health department each quarter and the State Controller shall thereupon draw the necessary warrants, and the State Treasurer shall pay to the administrative body of each local health department the amount so certified. Any such payments may be withheld by the Department of Benefit Payments if a local health department fails to continue to meet the minimum standards established by the State Department of Health, provided that not less than 45 days' advance notice of intention to withhold such payments, and the reasons therefor, shall be given to the governing body of the local health department.

SEC. 49. Section 3279 of the Health and Safety Code is amended to read:

3279. The department shall maintain a program for the control of tuberculosis. The Department of Benefit Payments shall administer the funds made available by the state for the care of tuberculosis patients.

SEC. 50. Section 3287 of the Health and Safety Code is amended to read:

3287. The department and the Department of Benefit Payments may inspect and have access to all records of all institutions and clinics, both public and private, where tuberculosis patients are treated.

SEC. 51. Section 3289 is added to the Health and Safety Code, to read:

3289. The Department of Benefit Payments succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the State Department of Health with respect to the processing, audit, and certification for payments of claims for state aid made under this chapter. Moneys, funds, and appropriations available to the State Department of Health for the purposes of this section shall be made available to the Department of Benefit Payments by the Director of Health for the purposes of this section after such moneys, funds, and appropriations have been appropriated to or received by the State Department of Health.

SEC. 52. Section 3290 is added to the Health and Safety Code, to read:

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3290. The Department of Benefit Payments shall have the possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Health in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the Department of Benefit Payments by Section 3289.

SEC. 53. Section 3291 is added to the Health and Safety Code, to read:

3291. All officers and employees of the Director of Health who on the operative date of this section are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the Department of Benefit Payments by Section 3289 shall be transferred to the Department of Benefit Payments. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the Department of Benefit Payments pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 54. Section 3299 of the Health and Safety Code is amended to read:

3299. The medical superintendent of each hospital for which state aid is received under this chapter shall render semiannually to the State Department of Health a report under oath showing, for the period covered by the report:

(a) The number of patients suffering from tuberculosis cared for at public expense, and unable to pay for care.

(b) The number of days of treatment of each such patient. In the case of hospitals, wards, or sanatoriums operated jointly by two or more counties, the patients whose admission and care have been authorized by each county shall be reported separately.

With the consent of the respective cities, counties, or groups of counties, an exchange of patients may be arranged without expense to the county except for transportation when the exchange seems necessary or desirable to assist in the patients' recovery.

Counties may contract for the care and treatment of tuberculosis patients through their boards of supervisors, after consultation with the state department, with cities, counties, or groups of counties, who maintain a tuberculosis ward or hospital for the treatment of persons suffering from tuberculosis, which conforms to the regulations of, and is approved by, the state department, and may receive from the state the tuberculosis subsidy provided by Section 3300.

SEC. 55. Section 38056 of the Health and Safety Code is amended to read:

38056. No member of an area board may be an employee of a regional center, the State Department of Health, or the Department of Benefit Payments.

SEC. 56. Section 38200 of the Health and Safety Code is amended to read:

38200. There is in the Health and Welfare Agency the State

Documentation

Developmental Disabilities Planning and Advisory Council.

The council shall consist of 15 voting members. Six members shall represent consumers of services for persons with developmental disabilities of whom one member shall be the parent of a mentally retarded child who is not in a state hospital and one member shall be the parent of a mentally retarded child who is a patient in a state hospital.

Five members shall be representatives of local agencies, nongovernmental organizations, and groups concerned with services for persons with developmental disabilities.

The Governor shall appoint the following seven members of the council: the six representatives of consumers of services for persons with developmental disabilities and one representative of a local agency or nongovernmental organization serving the retarded. The Senate Rules Committee and the Speaker of the Assembly shall each appoint two representatives of local agencies or nongovernmental organizations serving the retarded.

The State Director of Health, the Director of Benefit Payments, the Superintendent of Public Instruction, and the Director of the Department of Rehabilitation shall serve as members of the council.

Of the members appointed by the Governor, three shall hold office for three years, two shall hold office for two years, and two shall hold office for one year. The members appointed by the Senate Rules Committee and by the Speaker of the Assembly each shall hold office for three years.

SEC. 57. Section 38250 of the Health and Safety Code is amended to read:

38250. It is the intent of this division that state funds previously allocated to other agencies for the provision of out-of-home prehospital, hospital and posthospital care be allocated, to the fullest extent feasible, to regional centers to contract with appropriate agencies for the provision of out-of-home placements.

In the event either the Governor or the Legislature should obtain federal approval to transfer programs for the mentally retarded from other state departments to the State Department of Health under the provisions of Public Law 90-577 (Intergovernmental Cooperation Act of 1968), the State Controller shall, upon approval of the Director of Finance, transfer to the State Department of Health such parts of the appropriation of the other departments that are related to mental retardation programs; provided further, that such transfer shall enable the state to make maximum utilization of available state and federal funds.

It is the intent of this division that the regional center program be funded by the state on a regional basis using the maximum of federal funds available, and that all funds be transmitted through the Department of Benefit Payments to each regional center.

SEC. 58. Section 38250.1 is added to the Health and Safety Code, to read:

38250.1. The Department of Benefit Payments succeeds to and is

vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the State Department of Health and the Secretary of the Health and Welfare Agency with respect to the processing, audit, and payment of funds made available under this chapter. Moneys, funds, and appropriations available to the State Department of Health for the purposes of this section shall be made available to the Department of Benefit Payments by the Director of Health for the purposes of this section after such moneys, funds, and appropriations have been appropriated to or received by the Department of Health.

SEC. 59. Section 38250.2 is added to the Health and Safety Code, to read:

38250.2. The Department of Benefit Payments shall have the possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Health in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the Department of Benefit Payments by Section 38250.1.

SEC. 60. Section 38250.3 is added to the Health and Safety Code, to read:

38250.3. All officers and employees of the Director of Health and the Secretary of the Health and Welfare Agency who on the operative date of this section are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the Department of Benefit Payments by Section 38250.1 shall be transferred to the Department of Benefit Payments. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the Department of Benefit Payments pursuant to the State Civil Service Act, except as to positions exempt from civil service.

SEC. 61. Section 38251 of the Health and Safety Code is amended to read:

38251. When appropriated by the Legislature, the State Department of Health may receive and the Department of Benefit Payments may expend all funds made available by the federal government, the state, its political subdivisions, and other sources, and, within the limitation of the funds made available, shall act as an agent for the transmittal of such funds for services through the regional centers. The Department of Benefit Payments may use any funds received under Article 2 (commencing with Section 249) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code for the purposes of this division.

SEC. 62. Section 38252 of the Health and Safety Code is amended to read:

38252. The State Department of Health may accept and expend grants, gifts, and legacies of money and, with the consent of the Department of Finance, may accept, manage and expend grants, gifts and legacies of other property, in furtherance of the purposes

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of this division.

The secretary may enter into agreements with any person, agency, corporation, foundation, or other legal entity to carry out the purposes of this division.

SEC. 63. Section 38253 of the Health and Safety Code is amended to read:

38253. The secretary, in the same manner and subject to the same conditions as other state agencies, shall submit a program budget annually to the Department of Finance, including not only expenditures proposed to be made under this division, but also expenditures proposed to be made under any related program or by any other state agency, designed to provide services incidental to the functions to which this division relates. The secretary may require state departments to contract with him for services to carry out the provisions of this division.

Notwithstanding any other provision of law, authorized services to eligible persons, as defined in this division, provided by all state agencies, including, but not limited to, the Departments of Education, Health, Rehabilitation and Benefit Payments shall, to the fullest extent permitted by federal law, by contract or otherwise, be made available upon request of the director, and the approval of the secretary, to the department for services to eligible persons.

The secretary shall consult with the departments involved in developing the statewide plan and program budget, and shall seek the advice of the state board.

SEC. 64. Section 1690.1 of the Labor Code is amended to read:

1690.1. If any licensee fails to remit the proper amount of worker contributions required by Chapter 4 (commencing with Section 901) of Part 1 of Division 1 of the Unemployment Insurance Code, or the Department of Benefit Payments has made an assessment for such unpaid worker contributions against the licensee that is final, the Labor Commissioner shall, upon written notice by the Department of Benefit Payments, refuse to issue or renew the license of such licensee until such licensee has fully paid the amount of delinquency for such unpaid worker contributions.

The Labor Commissioner shall not, however, refuse to renew the license of a licensee under this section until the assessment for unpaid worker contributions is final and unpaid, and the licensee has exhausted, or failed to seek, his right of administrative review of such final assessment, pursuant to Chapter 4 (commencing with Section 901) of Part 1 of Division 1 of the Unemployment Insurance Code.

SEC. 65. Section 13020 of the Penal Code, as amended by Chapter 1377 of the Statutes of 1972, is amended to read:

13020. It shall be the duty of every constable, city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Adult Authority,

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Department of Youth Authority, California Women's Board of Terms and Parole, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him;

(b) To report statistical data to the department at such times and in such manner as the Attorney General prescribes;

(c) To give to the Attorney General, or his accredited agent, access to statistical data for the purpose of carrying out the provisions of this title.

SEC. 66. Section 13020 of the Penal Code, as amended by Chapter 1377 of the Statutes of 1972, is amended to read:

13020. It shall be the duty of every constable, city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Correctional Services, Parole Authority, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him;

(b) To report statistical data to the Department of Justice at such times and in such manner as the Attorney General prescribes;

(c) To give to the Attorney General, or his accredited agent, access to statistical data for the purpose of carrying out the provisions of this title.

SEC. 67. Section 7057 of the Revenue and Taxation Code, as amended by Chapter 1273 of the Statutes of 1972, is amended to read:

7057. Any officer or employee of the Board of Equalization authorized to accept an application for a seller's permit under Section 6066 of this code or authorized to register a retailer under Section 6226 of this code shall at the time of acceptance of such an application or such registration, ascertain whether or not the person is also required to register as an employer under Section 1086 of the Unemployment Insurance Code, and if so shall register the person as an employer on a form provided by the Department of Benefit Payments and shall promptly notify the Department of Benefit Payments of such registration.

SEC. 68. Section 17061 of the Revenue and Taxation Code is amended to read:

17061. (a) In the case of a person entitled to a refund pursuant to Section 1176 of the Unemployment Insurance Code, there shall be a credit against the tax imposed under this part in the amount of such refund. If the tax due after deduction of any other credit under this part is less than the credit allowable pursuant to this section, the difference shall be a tax refund.

(b) If the Franchise Tax Board disallows the refund or credit provided for by this section, the Franchise Tax Board shall notify the claimant accordingly. The Franchise Tax Board's action upon the credit or refund is final unless the claimant files a protest with the Director of Benefit Payments pursuant to Section 1176.5 of the Unemployment Insurance Code. None of the remedies provided by this part shall be available to such claimant.

SEC. 69. Section 19268 of the Revenue and Taxation Code is amended to read:

19268. The Franchise Tax Board shall transmit to the Director of Benefit Payments claims for credit or refund allowed pursuant to Section 17061 of this code and subdivision (a) of Section 1176.5 of the Unemployment Insurance Code.

SEC. 70. Section 130 of the Unemployment Insurance Code is amended to read:

130. "Contingent fund" means the Department of Employment Development Contingent Fund.

SEC. 71. Section 133 of the Unemployment Insurance Code is amended to read:

133. Except as otherwise provided, "department" means the Department of Human Resources Development.

SEC. 72. Section 133 of the Unemployment Insurance Code is amended to read:

133. Except as otherwise provided, "department" means the Department of Employment Development.

SEC. 73. Section 134 of the Unemployment Insurance Code is amended to read:

134. Except as otherwise provided, "director" means the Director of the Department of Human Resources Development.

SEC. 74. Section 134 of the Unemployment Insurance Code is amended to read:

134. Except as otherwise provided, "director" means the Director of Employment Development.

SEC. 75. The heading of Article 1 (commencing with Section 301) of Chapter 2 of Part 1 of Division 1 of the Unemployment Insurance Code is amended to read:

Article 1. Departments of Human Resources Development and Benefit Payments

SEC. 76. The heading of Article 1 (commencing with Section 301) of Chapter 2 of Part 1 of Division 1 of the Unemployment Insurance Code is amended to read:

CHAPTER 255

An act to amend Sections 11501.5, 11555, and 11556 of, and to repeal Section 11563.2 of, the Government Code, and to amend Sections 11561, 11563 and 11564 of the Health and Safety Code, and to amend Sections 1170, 1170.2, 1389.7, 1554.2, 2081.5, 2651, 2684, 2911, 2932, 3000, 3040, 3041, 3041.5, 3041.7, 3042, 3046, 3053, 3053.5, 3059, 3060, 3062, 3064, 3421, 4600, 4801, 4802, 4803, 4810, 4812, 4813, 4814, 4850, 4851, 4852.14, 4852.18, 5001, 5002, 5003.5, 5011 of, the heading of Chapter 3 (commencing with Section 5075) of Title 3 of Part 3 of, and Sections 5075, 5076, 5076.1, 5076.2, 5077, 5078, 5080, 5081, 5082, 5089, 6025.5, 11193, 11194, 13011, and 13020 of, the Penal Code, and to amend Section 6316.1 of the Welfare and Institutions Code, relating to imprisonment.

[Approved by Governor July 11, 1979. Filed with Secretary of State July 11, 1979.]

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

SECTION 1. Section 11501.5 of the Government Code is amended to read:

11501.5. (a) The following state agencies shall provide language assistance at adjudicatory hearings pursuant to supervision (d) of Section 11513:

Agricultural Labor Relations Board
State Department of Alcohol and Drug Abuse
Athletic Commission
California Unemployment Insurance Appeals Board
Board of Prison Terms
Board of Cosmetology
State Department of Developmental Services
Public Employment Relations Board
Franchise Tax Board
State Department of Health Services
Department of Housing and Community Development
Department of Industrial Relations
State Department of Mental Health
Department of Motor Vehicles
Notary Public Section, Office of the Secretary of State
Public Utilities Commission
Office of Statewide Health Planning and Development
State Department of Social Services
Workers' Compensation Appeals Board
Department of the Youth Authority
Bureau of Employment Agencies
Board of Barber Examiners
Department of Insurance
State Personnel Board

(b) Nothing in this section shall be construed to prevent any agency other than those listed in subdivision (a) from electing to adopt any of the procedures set forth in subdivision (d), (e), (f), (g), (h), or (i) of Section 11513, except that the State Personnel Board shall determine the general language proficiency of prospective interpreters as described in subdivisions (d) and (e) of Section 11513 unless otherwise provided for as described in subdivision (f) of Section 11513.

SEC. 2. Section 11555 of the Government Code is amended to read:

11555. An annual salary of twenty-six thousand two hundred fifty dollars ($26,250) shall be paid to the following:

(a) Chairman of the Board of Prison Terms

(b) Chairman of the State Water Resources Control Board

(c) Chairman of the Youth Authority Board.

SEC. 3. Section 11556 of the Government Code is amended to read:

11556. An annual salary of twenty-five thousand dollars ($25,000) shall be paid to each of the following:

(a) Director of Navigation and Ocean Development

(b) Director, Office of Emergency Services

(c) Members of the Board of Prison Terms

(d) Members of the State Water Resources Control Board

(e) Members of the Youth Authority Board

(f) State Fire Marshal

SEC. 4. Section 11563.2 of the Government Code is repealed.

SEC. 5. Section 11561 of the Health and Safety Code is amended to read:

11561. When the Board of Prison Terms concludes that there are reasonable grounds for believing that a man on parole is addicted to, or is in imminent danger of addiction to, controlled substances it may issue an order to detain or place such person in a controlled substance treatment control unit for a period not to exceed 90 days. Such order shall be a sufficient warrant for any peace officer or employee of the Department of Corrections to return to physical custody any such person. Detention pursuant to such order shall not be deemed a suspension, cancellation or revocation of parole until such time as the Board of Prison Terms so orders pursuant to Section 3060 of the Penal Code. A parolee taken into physical custody pursuant to Section 3060 of the Penal Code may be detained in a controlled substance treatment control unit established pursuant to this article.

SEC. 6. Section 11563 of the Health and Safety Code is amended to read:

11563. When the Board of Prison Terms concludes that there are reasonable grounds for believing that a woman on parole is addicted to, or is in imminent danger of addiction to, controlled substances, it may issue an order to detain or place such person in a controlled substance treatment control unit for a period not to exceed 90 days.

Such order shall be a sufficient warrant for any peace officer or employee of the Department of Corrections to return to physical custody any such person. Detention pursuant to such order shall not be deemed a suspension, cancellation or revocation of parole until such time as the board so orders pursuant to Section 3060 of the Penal Code. A parolee taken into physical custody pursuant to Section 3060, 6043, or 6044 of the Penal Code may be detained in a controlled substance treatment control unit established pursuant to this article.

SEC. 7. Section 11564 of the Health and Safety Code is amended to read:

11564. The authority granted to the Board of Prison Terms and the Youth Authority in no way limits Sections 3060 and 3325 of the Penal Code.

SEC. 8. Section 1170 of the Penal Code is amended to read:

1170. (a) (1) The Legislature finds and declares that the purposes of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of 16 months, two or three years; two, three, or four years; two, three, or five years; three, four, or five years; two, four, or six years; three, four, or six years; three, five, or seven years; three, six, or eight years; five, seven, or nine years; five, seven, or 11 years, or any other specification of three time periods, the court shall sentence the defendant to one of the terms of imprisonment specified unless such convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he had committed his crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term which it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law which imposes the death penalty, which authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence, including any period of parole under Section 3000, shall be deemed to have been

served and the defendant shall not be actually delivered to the custody of the Director of Corrections. However, any such sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the Director of Corrections.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime. At least four days prior to the time set for imposition of judgment either party may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report, or to present additional facts. In determining whether there are circumstances that justify imposition of the upper or lower term, the court may consider the record in the case, the probation officer's report, other reports including reports received pursuant to Section 1203.03 and statements in aggravation or mitigation submitted by the prosecution or the defendant, and any further evidence introduced at the sentencing hearing. The court shall set forth on the record the facts and reasons for imposing the upper or lower term. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under Section 667.5, 1170.1, 12022, 12022.5, 12022.6, or 12022.7. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the Director of Corrections, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the Director of Corrections or the Board of Prison Terms, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) Any sentence imposed under this article shall be subject to the provisions of Sections 3000 and 3057 and any other applicable provisions of law.

(f) In all cases the Board of Prison Terms shall, not later than one year after the commencement of the term of imprisonment, review the sentence and shall by motion recommend that the court recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he had not been previously

sentenced if the board determines the sentence is disparate. The review under this section shall concern the decision to deny probation and the sentencing decisions enumerated in subdivisions (b), (c), (d), and (e) of Section 1170.3 and apply the sentencing rules of the Judicial Council and the information regarding the sentences in this state of other persons convicted of similar crimes so as to eliminate disparity of sentences and to promote uniformity of sentencing.

SEC. 9. Section 1170.2 of the Penal Code is amended to read:

1170.2. (a) In the case of any inmate who committed a felony prior to July 1, 1977, who would have been sentenced under Section 1170 if he had committed it after July 1, 1977, the Board of Prison Terms shall determine what the length of time of imprisonment would have been under Section 1170 without consideration of good-time credit and utilizing the middle term of the offense bearing the longest term of imprisonment of which the prisoner was convicted increased by any enhancements justified by matters found to be true and which were imposed by the court at the time of sentencing for such felony. Such matters include: being armed with a deadly or dangerous weapon as specified in Section 211a, 460, 3024, or 12022 prior to July 1, 1977, which may result in a one-year enhancement pursuant to the provisions of Section 12022; using a firearm as specified in Section 12022.5 prior to July 1, 1977, which may result in a two-year enhancement pursuant to the provisions of Section 12022.5; infliction of great bodily injury as specified in Section 213, 264, or 461 prior to July 1, 1977, which may result in a three-year enhancement pursuant to the provisions of Section 12022.7; any prior felony conviction as specified in any statute prior to July 1, 1977, which prior felony conviction is the equivalent of a prior prison term as defined in Section 667.5, which may result in the appropriate enhancement pursuant to the provisions of Section 667.5; and any consecutive sentence.

(b) If the calculation required under subdivision (a) is less than the time to be served prior to a release date set prior to July 1, 1977, or if a release date had not been set, the Board of Prison Terms shall establish the prisoner's parole date, subject to subdivision (d), on the date calculated under subdivision (a) unless at least two of the members of the Board of Prison Terms after reviewing the prisoner's file, determine that due to the number of crimes of which the prisoner was convicted, or due to the number of prior convictions suffered by the prisoner, or due to the fact that the prisoner was armed with a deadly weapon when the crime was committed, or used a deadly weapon during the commission of the crime, or inflicted or attempted to inflict great bodily injury on the victim of the crime, the prisoner should serve a term longer than that calculated in subdivision (a), in which event the prisoner shall be entitled to a hearing before a panel consisting of at least two members of the Board of Prison Terms as provided for in Section 3041.5. The Board of Prison Terms shall notify each prisoner who is

scheduled for such a hearing within 90 days of July 1, 1977, or within 90 days of the date the prisoner is received by or returned to the custody of the Department of Corrections, whichever is later. The hearing shall be held before October 1, 1978, or within 120 days of receipt of the prisoner, whichever is later. It is the intent of the Legislature that the hearings provided for in this subdivision shall be accomplished in the most expeditious manner possible. At such hearing the prisoner shall be entitled to be represented by legal counsel, a release date shall be set, and the prisoner shall be informed in writing of the extraordinary factors specifically considered determinative and on what basis the release date has been calculated. In fixing a term under this section the board shall be guided by, but not limited to, the term which reasonably could be imposed on a person who committed a similar offense under similar circumstances on or after July 1, 1977, and further, the board shall be guided by the following finding and declaration hereby made by the Legislature: that the necessity to protect the public from repetition of extraordinary crimes of violence against the person is the paramount consideration.

(c) Nothing in this section shall be deemed to keep an inmate in the custody of the Department of Corrections for a period of time longer than he would have been kept in its custody under the provisions of law applicable to him prior to July 1, 1977. Nothing in this section shall be deemed to require the release of an inmate sentenced to consecutive sentences under the provisions of law applicable to him prior to July 1, 1977, earlier than if he had been sentenced to concurrent sentences.

(d) In the case of any prisoner who committed a felony prior to July 1, 1977, who would have been sentenced under Section 1170 if the felony was committed on or after July 1, 1977, the good behavior and participation provisions of Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply from July 1, 1977, and thereafter.

(e) In the case of any inmate who committed a felony prior to July 1, 1977, who would have been sentenced under Section 1168 if the felony was committed on or after July 1, 1977, the Board of Prison Terms shall provide for release from prison as provided for by this code.

(f) In the case of any inmate who committed a felony prior to July 1, 1977, the length, conditions, revocation, and other incidents of parole shall be the same as if the prisoner had been sentenced for an offense committed on or after July 1, 1977.

(g) Nothing in this chapter shall affect the eligibility for parole under Article 3 (commencing with Section 3040) of Chapter 8 of Title 1 of Part 3 of an inmate sentenced pursuant to Section 1168 as operative prior to July 1, 1977, for a period of parole as specified in subdivision (b) of Section 3000.

(h) In fixing a term under this section, the Board of Prison Terms shall utilize the terms of imprisonment as provided in Chapter 1139

of the Statutes of 1976 and Chapter 165 of the Statutes of 1977.

SEC. 10. Section 1389.7 of the Penal Code is amended to read:

1389.7. When, pursuant to the agreement on detainers or other provision of law, a person in actual confinement under sentence of another jurisdiction is brought before a California court and sentenced by the judge to serve a California sentence concurrently with the sentence of the other jurisdiction or has been transferred to another jurisdiction for concurrent service of previously imposed sentences, the Board of Prison Terms, and the panels and members thereof, may meet in such other jurisdiction, or enter into cooperative arrangements with corresponding agencies in the other jurisdiction, as necessary to carry out the term-fixing and parole functions.

SEC. 11. Section 1554.2 of the Penal Code is amended to read:

1554.2. (a) When the return to this state of a person charged with crime in this state is required, the district attorney shall present to the Governor his written application for a requisition for the return of the person charged. In such application there shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, and the state in which he is believed to be, including the location of the accused therein at the time the application is made. Such application shall certify that, in the opinion of the district attorney, the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

(b) When the return to this state is required of a person who has been convicted of a crime in this state and who has escaped from confinement or has violated the terms of his bail, probation or parole the district attorney of the county in which the offense was committed, the Board of Prison Terms, the Director of Corrections, the California Institution for Women, the Youth Authority, or the sheriff of the county from which escape from confinement was made, shall present to the Governor a written application for a requisition for the return of such person. In such application there shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape or of the violation of the terms of his bail, probation or parole, and the state in which he is believed to be, including the location of such person therein at the time application is made.

(c) The application shall be verified, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment, the information, or the verified complaint made to the magistrate stating the offense with which the accused is charged, or the judgment of conviction or the sentence. The officer or board requesting the requisition may also attach such affidavits and other documents in duplicate as are deemed proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the

certified copies of the indictment, verified complaint, information, or judgment of conviction or sentence shall be filed in the office of the Secretary of State. The other copies of all papers shall be forwarded with the Governor's requisition.

SEC. 12. Section 2081.5 of the Penal Code is amended to read:

2081.5. The Director of Corrections shall keep complete case records of all prisoners under custody of the department, which records shall be made available to the Board of Prison Terms at such times and in such form as the board may prescribe.

Case records shall include all information received by the Director of Corrections from the courts, probation officers, sheriffs, police departments, district attorneys, State Department of Justice, Federal Bureau of Investigation, and other interested agencies and persons. Case records shall also include a record of diagnostic findings, considerations, actions and dispositions with respect to classification, treatment, employment, training, and discipline as related to the institutional correctional program followed for each prisoner.

The director shall appoint, after consultation with the Board of Prison Terms, such employees of the various institutions under his control as may be necessary for the proper performance of the duties of the Board of Prison Terms, and when requested shall also have in attendance at hearings of the Board of Prison Terms, psychiatric or medical personnel. The director shall furnish, after consultation with the Board of Prison Terms and the Director of General Services, such hearing rooms and other physical facilities at such institutions as may be necessary for the proper performance of the duties of the Board of Prison Terms.

SEC. 13. Section 2651 of the Penal Code is amended to read:

2651. No punishment, except as may be authorized by the Director of Corrections, shall be inflicted and then only by the order and under the direction of the wardens. Nothing in this section shall be construed as a limitation or impairment of the authority of the Board of Prison Terms in exercising its functions.

SEC. 14. Section 2684 of the Penal Code is amended to read:

2684. If, in the opinion of the Director of Corrections, the rehabilitation of any mentally ill, mentally deficient, or insane person confined in a state prison may be expedited by treatment at any one of the state hospitals under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, the Director of Corrections, with the approval of the Board of Prison Terms for persons sentenced pursuant to subdivision (b) of Section 1168, shall certify that fact to the director of the appropriate department who shall evaluate the prisoner to determine if he would benefit from care and treatment in a state hospital. If the director of the appropriate department so determines, the superintendent of the hospital shall receive the prisoner and keep him until in the opinion of the superintendent such person has been treated to such an extent that he will not benefit from further care and treatment in the state hospital.

SEC. 15. Section 2911 of the Penal Code is amended to read:

2911. (a) The Director of Corrections may enter into contracts, with the approval of the Director of General Services, with appropriate officials or agencies of the United States for the confinement, care, education, treatment and employment of such persons convicted of criminal offenses in the courts of this state and committed to state prisons as the director believes can benefit by such confinement, care, education, treatment, and employment.

(b) Any contract entered into pursuant to subdivision (a) shall provide for (1) reimbursement to the United States government for the cost of such services, including any costs incurred by such government in transporting such prisoners, and (2) such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the respective parties to the contract.

(c) No inmate may be transferred from an institution within this state to a federal facility pursuant to such a contract unless he has executed, in the presence of the warden or other head of the institution in this state in which he is confined, a written consent to the transfer. The inmate shall have the right to a private consultation with an attorney of his choice, concerning his rights and obligations under this section, prior to his appearance before the warden or other head of the institution for the purpose of executing the written consent.

(d) Whenever a contract has been made pursuant to this section the director may direct the transfer of an inmate to the facility designated and shall thereafter deliver the inmate to the custody of the appropriate federal officials for transportation to such facility. An inmate so transferred shall at all times be subject to the jurisdiction of this state and may at any time be removed from the facility in which he is confined for return to this state, for transfer to another facility in which this state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of this state; in all other respects, an inmate transferred to a federal facility shall be subject to all provisions of the law or regulations applicable to persons committed for violations of laws of the United States not inconsistent with the sentence imposed on such inmate.

(e) The Board of Prison Terms, and the panels and members thereof, may meet at the federal facility where an inmate is confined pursuant to this section or enter into cooperative arrangements with corresponding federal agencies or officials, as necessary to carry out the term-fixing and parole functions. Nothing in this subdivision shall be deemed to waive an inmate's right to personally appear before the Board of Prison Terms.

(f) Any inmate confined pursuant to a contract entered into pursuant to this section shall be released within the territory of this state unless the inmate, this state and the federal government shall agree upon release in some other place. This state shall bear the cost of return of the inmate to its territory.

SEC. 16. Section 2932 of the Penal Code is amended to read:

2932. (a) Not more than 90 days of good behavior credit nor more than 30 days of participation credit may be denied or lost during any eight-month period during which the misbehavior or failure to participate took place. Good behavior and participation credit shall be deemed to be earned in cases where the department fails to adhere to the time limitations of this section except as specified in subdivision (c). Any procedure not provided for by this section, but necessary to carry out the purposes of this section, shall be those procedures provided for by the Department of Corrections for serious disciplinary infractions if those procedures are not in conflict with this section.

(1) The Department of Corrections shall, using reasonable diligence to investigate, provide written notice to the prisoner. The written notice shall be given within five days after the discovery of information leading to charges that may result in a possible denial of good behavior or participation credit, but not later than 30 days after the alleged misbehavior took place, unless the evidence was not reasonably discoverable. The written notice shall include the specific charge, the date, the time, the place that the alleged misbehavior took place, the evidence relied upon, a written explanation of the procedures that will be employed at the proceedings and the prisoner's rights at such hearing, and in the case where the prisoner has been notified more than 30 days after the alleged misbehavior why the evidence was not reasonably discoverable within the 30 days or any sooner than it was discovered. Such hearing shall be conducted by an individual who shall be independent of the case and shall take place within 10 days of such written notice; unless for good cause shown by the Department of Corrections that extraordinary circumstances prevented the hearing from being conducted within 10 days and the prisoner is not prejudiced by the delay the Department of Corrections shall notify the prisoner in writing specifying the extraordinary circumstances and shall conduct the hearing as soon as possible but in no case later than 30 days after the initial written notice of possible good behavior or participation denial.

(2) The prisoner has the right to elect to be assigned an investigative employee who will gather information, talk to witnesses, prepare a written report and be present at the hearing.

(3) The prisoner may request witnesses to attend the hearing and they shall be called unless the person conducting the hearing has specific reasons to deny this request. Such specific reasons shall be set forth in writing and a copy of such document shall be presented to the prisoner.

(4) The person who will conduct the hearing shall determine if the prisoner shall need assistance with presentation of a defense at the hearing and if so, at the prisoner's discretion, the prisoner has the right to be assigned an employee of the Department of Corrections to assist in presenting the prisoner's defense.

(5) The prisoner has the right, under the direction of the person conducting the hearing, to question all witnesses.

(6) At the conclusion of the hearing the charge shall be dismissed if the facts do not support the charge, or the inmate may be found guilty on the basis of a preponderance of the evidence.

(7) If found guilty the prisoner shall be advised within 10 days in writing of the guilty finding and the specific evidence relied upon to reach this conclusion and the amount of good-time loss. The prisoner may appeal such decision through the Department of Corrections review procedure, and may, upon final notification of appeal denial, within 10 days of such notification demand review of the department's denial of credit to the Board of Prison Terms, and the board may affirm, reverse, or modify the department's decision or grant a hearing before the board at which hearing the inmate will have the rights specified in Section 3041.5.

(b) Within 30 days of reception in prison, each prisoner shall be notified of the total amount of good behavior and participation credit which may be credited to his term and his anticipated good-time release date and shall be notified of any change in the anticipated release date.

(c) If the conduct the prisoner is charged with also constitutes a crime, the Department of Corrections may refer the case to criminal authorities for possible prosecution and notify the prisoner as provided in subdivision (a), in which case the time limitations specified in subdivision (a) shall not apply. If the district attorney has not filed an accusatory pleading against the prisoner within 60 days of such referral, the prisoner may request that a hearing be held in which case the department must hold the hearing within 15 days of such request.

In the case where the prisoner is prosecuted by the district attorney, the Department of Corrections shall not deny good behavior credit where the prisoner is found not guilty and may deny good behavior credit pursuant to the schedule specified in Section 2931 if the prisoner is found guilty.

(d) If good behavior or participation credit denial proceedings, or criminal prosecution prohibit the release of a prisoner who would have otherwise been released, and the prisoner is found not guilty of the alleged misconduct, the amount of time spent incarcerated, in excess of what the period of incarceration would have been absent the alleged misbehavior, shall be deducted from the prisoner's parole period.

SEC. 17. Section 3000 of the Penal Code is amended to read:

3000. The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the supervision of and surveillance of parolees and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and

discharge. A sentence pursuant to Section 1168 or 1170 shall include a period of parole, unless waived, as provided in this section. Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter:

(a) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170, or at the expiration of such term as reduced pursuant to Section 2931, if applicable, the inmate shall be released on parole for a period not exceeding three years, unless the board for good cause waives parole and discharges the inmate from custody of the department.

(b) In the case of any inmate sentenced under Section 1168, the period of parole shall not exceed five years in the case of an inmate imprisoned under a life sentence, and shall not exceed three years in the case of an inmate whose prison sentence does not consist of imprisonment under a life sentence, unless in either case the board for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall be also applicable to inmates who committed crimes prior to July 1, 1977, to the extent specified in Section 1170.2.

(c) The board shall consider the request of any inmate regarding the length of his parole and the conditions thereof.

(d) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under subdivision (a) or (b), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and subdivisions (a) and (b) shall be computed from the date of initial parole, or July 1, 1977, whichever is later, and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward such period of parole unless the prisoner is found not guilty of the parole violation. However, in no case, except as provided in Section 3064, may a prisoner sentenced pursuant to Section 1170 be retained under parole supervision or in custody for a period longer than four years from the date of his initial parole, and, except as provided in Section 3064, in no case may a prisoner sentenced pursuant to subdivision (b) of Section 1168 be retained under parole supervision or in custody for a period longer than seven years from the date of his initial parole.

(e) It is not the intent of this section to diminish resources presently allocated to the Department of Corrections for parole functions.

(f) The Department of Corrections shall meet with each inmate at least 30 days prior to his good time release date, unless such release date is within 30 days of July 1, 1977, and shall provide, under guidelines specified by the Board of Prison Terms, the conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the Board of Prison Terms.

SEC. 18. Section 3040 of the Penal Code is amended to read:

3040. The Board of Prison Terms shall have the power to allow prisoners imprisoned in the state prisons pursuant to subdivision (b) of Section 1168 to go upon parole outside the prison walls and enclosures. The board may parole prisoners in the state prisons to camps for paroled prisoners established under Section 2792.

SEC. 19. Section 3041 of the Penal Code is amended to read:

3041. (a) In the case of any prisoner sentenced pursuant to any provision of law, other than Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, the Board of Prison Terms shall meet with each such inmate within the first year of incarceration solely for the purposes of reviewing the inmate's file and making recommendations. One year prior to the inmate's minimum eligible parole release date a panel consisting of at least two members of the Board of Prison Terms shall again meet with the inmate and shall normally set a parole release date as provided in Section 3041.5. The release date shall be set in a manner that will provide uniform terms for offenses of similar gravity and magnitude in respect to their threat to the public, and that will comply with the sentencing rules that the Judicial Council may issue and any sentencing information relevant to the setting of parole release dates. The board shall establish criteria for the setting of parole release dates and in doing so shall consider the number of victims of the crime for which the prisoner was sentenced and other factors in mitigation or aggravation of the crime. At least one member of the panel shall have been present at the last preceding meeting, unless it is not feasible to do so or where the last preceding meeting was the initial meeting. Any person on the hearing panel may request review of any decision regarding parole to the full board for an en banc hearing. In case of such a review, a majority vote of the full Board of Prison Terms in favor of parole is required to grant parole to any prisoner.

(b) The panel or board shall set a release date unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual, and that a parole date, therefore, cannot be fixed at this meeting.

(c) For the purpose of reviewing the suitability for parole of those prisoners eligible for parole under prior law at a date earlier than that calculated under Section 1170.2, the board shall appoint panels of at least two persons to meet annually with each such prisoner until such time as the person is released pursuant to such proceedings or reaches the expiration of his term as calculated under Section 1170.2.

SEC. 20. Section 3041.5 of the Penal Code is amended to read:

3041.5. (a) At all hearings for the purpose of reviewing a prisoner's parole suitability, or the setting, postponing or rescinding of parole dates:

(1) At least 10 days prior to any hearing by the Board of Prison Terms, the prisoner shall be permitted to review his or her file which

will be examined by the board and shall have the opportunity to enter a written response to any material contained in such file.

(2) The prisoner shall be permitted to be present, to ask and answer questions, and to speak on his own behalf.

(3) Unless legal counsel is required by some other provision of law, a person designated by the Department of Corrections shall be present to insure that all facts relevant to the decision be presented, including, if necessary, contradictory assertions as to matters of fact that have not been resolved by departmental or other procedures.

(4) The prisoner shall be permitted to request and receive a stenographic record of all proceedings.

(5) If the hearing is for the purpose of postponing or rescinding of parole dates, the prisoner will have rights set forth in paragraphs (3) and (5) of subdivision (a) of Section 2932.

(b) (1) Within 10 days following any meeting where a parole date has been set, the board shall send the prisoner a written statement setting forth his parole date, the conditions he must meet in order to be released on the date set, and the consequences of failure to meet such conditions.

(2) Within 20 days following any meeting where a parole date has not been set for the reasons stated in subdivision (b) of Section 3041, the board shall send the prisoner a written statement setting forth the reason or reasons for refusal to set a parole date; and suggest activities in which he might participate that will benefit him while he is incarcerated. The board shall hear each such case annually thereafter.

(3) Within 10 days of any board action resulting in the postponement of a previously set parole date, the board shall send the prisoner a written statement setting forth a new date and the reason or reasons for such action and shall offer the prisoner an opportunity for review of such action within 90 days of the time the prisoner receives the statement.

(4) Within 10 days of any board action resulting in the rescinding of a previously set parole date, the board shall send the prisoner a written statement setting forth the reason or reasons for such action and shall, within six months, set the prisoner's parole release date in accord with the provisions of Section 3041 and this section.

SEC. 21. Section 3041.7 of the Penal Code is amended to read:

3041.7. At any hearing for the purpose of setting, postponing, or rescinding a parole release date of a prisoner under a life sentence, such prisoner shall be entitled to be represented by counsel and the provisions of Section 3041.5 shall apply. The Board of Prison Terms shall provide by rule for the invitation of the prosecutor of the county from which the prisoner was committed, or his representative, to represent the interests of the people at any such hearing. The Board of Prison Terms shall notify the prosecutor at least 30 days prior to the date of the hearing.

Notwithstanding Section 12550 of the Government Code, the prosecutor of the county from which the prisoner was committed, or

his representative, who shall not be the Attorney General, shall be the sole representative of the interests of the people.

SEC. 22. Section 3042 of the Penal Code is amended to read:

3042. (a) At least 30 days before the Board of Prison Terms shall meet to review or consider the parole suitability or the setting or advancing of a parole date for any prisoner sentenced to a life sentence, the board shall send written notice thereof to each of the following persons: the judge of the superior court before whom the prisoner was tried and convicted, the attorney for the defendant, the district attorney of the county from which the prisoner was sentenced, and the law enforcement agency that investigated the case.

(b) The Board of Prison Terms shall record all such hearings and transcribe such recordings within 30 days of any such hearing. All such transcripts, including the transcripts of all such prior hearings, shall be filed and maintained in the office of the Board of Prison Terms and shall be made available to the public no later than 30 days from the date of the hearing. No such prisoner shall actually be released on parole prior to 60 days from the date of the hearing.

(c) At any such hearing the presiding hearing officer must state findings and supporting reasons on the record.

(d) Any statements, recommendations, or other materials considered shall be incorporated into the transcript of any such hearing, unless such material is confidential in order to preserve institutional security and the security of others who might be endangered by disclosure.

SEC. 23. Section 3046 of the Penal Code is amended to read:

3046. No prisoner imprisoned under a life sentence may be paroled until he has served at least seven calendar years. Where two or more life sentences are ordered to run consecutively to each other pursuant to Section 669, no prisoner so imprisoned may be paroled until he has served at least seven calendar years on each of the life sentences which are ordered to run consecutively. The Board of Prison Terms shall, in considering a parole for such prisoner, consider all statements and recommendations which may have been submitted by the judge, district attorney, and sheriff, pursuant to Section 1203.01, or in response to notices given under Section 3042, and recommendations of other persons interested in the granting or denying of such parole. The board shall enter on its order granting or denying parole to such prisoners, the fact that such statements and recommendations have been considered by it.

SEC. 24. Section 3053 of the Penal Code is amended to read:

3053. The Board of Prison Terms upon granting any parole to any prisoner may also impose on the parole such conditions as it may deem proper.

SEC. 25. Section 3053.5 of the Penal Code is amended to read:

3053.5. Upon granting parole to any prisoner convicted of any of the offenses enumerated in Section 290, the Board of Prison Terms shall inquire into the question whether the defendant at the time the

offense was committed was intoxicated or addicted to the excessive use of alcoholic liquor or beverages at that time or immediately prior thereto, and if it is found that the person was so intoxicated or so addicted, it shall impose as a condition of parole that such prisoner shall totally abstain from the use of alcoholic liquor or beverages.

SEC. 26. Section 3059 of the Penal Code is amended to read:

3059. If any paroled prisoner shall leave the state without permission of the Board of Prison Terms, he shall be held as an escaped prisoner and arrested as such.

SEC. 27. Section 3060 of the Penal Code is amended to read:

3060. The Board of Prison Terms shall have full power to suspend or revoke any parole, and to order returned to prison any prisoner upon parole. The written order of any member of the Board of Prison Terms shall be a sufficient warrant for any peace or prison officer to return to actual custody any conditionally released or paroled prisoner.

SEC. 28. Section 3062 of the Penal Code is amended to read:

3062. The Governor of the state shall have like power to revoke the parole of any prisoner. The written authority of the Governor shall likewise be sufficient to authorize any peace officer to retake and return said prisoner to the state prison. His written order revoking the parole shall have the same force and effect and be executed in like manner as the order of the Board of Prison Terms.

SEC. 29. Section 3084 of the Penal Code is amended to read:

3084. Each county board may release to the State Department of Corrections for return to a state prison or correctional institution any county or city jail inmate who is a state parole violator, when notified by the Board of Prison Terms.

SEC. 30. Section 3421 of the Penal Code is amended to read:

3421. Children of women inmates may only participate in the program until they reach the age of two years and two months, at which time the Board of Prison Terms may arrange for their care elsewhere under any procedure authorized by statute and transfer the mother to another placement under the jurisdiction of the Department of Corrections if necessary; and provided further, that at its discretion in exceptional cases, including, but not limited to, cases where the mother's period of incarceration is extended, the board may retain such child and mother for a longer period of time.

SEC. 31. Section 4600 of the Penal Code is amended to read:

4600. Every person who willfully and intentionally breaks down, pulls down, or otherwise destroys or injures any jail, prison, or any public property in any jail or prison, is punishable by a fine not exceeding ten thousand dollars ($10,000), and by imprisonment in the state prison, except that where the damage or injury to any city, city and county or county jail property or prison property is determined to be two hundred dollars ($200) or less, such person is guilty of a misdemeanor.

SEC. 32. Section 4801 of the Penal Code is amended to read:

4801. The Board of Prison Terms may report to the Governor

from time to time the names of any and all persons imprisoned in any state prison who, in its judgment, ought to have a commutation of sentence or be pardoned and set at liberty on account of good conduct, or unusual term of sentence, or any other cause which, in their opinion, should entitle the prisoner to a pardon or commutation of sentence.

SEC. 33. Section 4802 of the Penal Code is amended to read:

4802. In the case of a person twice convicted of felony, the application for pardon or commutation of sentence shall be made directly to the Governor, who shall transmit all papers and documents relied upon in support of and in opposition to the application to the Board of Prison Terms.

SEC. 34. Section 4803 of the Penal Code is amended to read:

4803. When an application is made to the Governor for pardon or commutation of sentence, or when an application has been referred to the Board of Prison Terms, he or it may require the judge of the court before which the conviction was had, or the district attorney by whom the action was prosecuted, to furnish him or it, without delay, with a summarized statement of the facts proved on the trial, and of any other facts having reference to the propriety of granting or refusing said application, together with his recommendation for or against the granting of the same and his reason for such recommendation.

SEC. 35. Section 4810 of the Penal Code is amended to read:

4810. (a) The Board of Prison Terms shall succeed to and shall exercise and perform all powers and duties granted to and imposed upon the Advisory Pardon Board by law.

(b) The Advisory Pardon Board is abolished.

(c) The report required of the Board of Prison Terms by Section 4814 may be included in the report of the department.

SEC. 36. Section 4812 of the Penal Code is amended to read:

4812. Upon request of the Governor the Board of Prison Terms shall investigate and report on all applications for reprieves, pardons and commutation of sentence and shall make such recommendations to the Governor with reference thereto as to it may seem advisable. To that end the board shall examine and consider all applications so referred and all transcripts of judicial proceedings and all affidavits or other documents submitted in connection therewith, and shall have power to employ assistants and take testimony and to examine witnesses under oath and to do any and all things necessary to make a full and complete investigation of and concerning all applications referred to it. Members of the board and its administrative officer are, and each of them is, hereby authorized to administer oaths.

SEC. 37. Section 4813 of the Penal Code is amended to read:

4813. In the case of applications of persons twice convicted of a felony, the Board of Prison Terms, after investigation, shall transmit its written recommendation upon such application to the Governor, together with all papers filed in connection with the application.

SEC. 38. Section 4814 of the Penal Code is amended to read:

4814. The Board of Prison Terms shall, on or before the first day of December of each even-numbered year, report to the Governor upon the status and history of matters under its consideration, together with an account of expenditures and such suggestions pertinent to its duties as may appear to be necessary and expedient.

SEC. 39. Section 4850 of the Penal Code is amended to read:

4850. No application which has not received a recommendation from the Board of Prison Terms favorable to the applicant shall be forwarded to the Clerk of the Supreme Court, unless the Governor, notwithstanding the fact that the board has failed to make a recommendation favorable to the applicant, especially refers an application to the justices for their recommendation.

SEC. 40. Section 4851 of the Penal Code is amended to read:

4851. In all cases where the Board of Prison Terms has made a recommendation favorable to the applicant and in those cases referred by the Governor, notwithstanding an adverse recommendation, the application, together with all papers and documents relied upon in support of and in opposition to said application, including prison records and recommendation of the authority, shall be forwarded to the Clerk of the Supreme Court for consideration of the justices.

SEC. 41. Section 4852.14 of the Penal Code is amended to read:

4852.14. The clerk of the court shall immediately transmit certified copies of the certificate of rehabilitation to the Governor, to the Board of Prison Terms and the Department of Justice, and, in the case of persons twice convicted of a felony, to the Supreme Court.

SEC. 42. Section 4852.18 of the Penal Code is amended to read:

4852.18. The Board of Prison Terms shall furnish to the county clerk of each county a set of sample forms for a petition for certificate of rehabilitation and pardon, a notice of filing of petition for certificate of rehabilitation and pardon, and a certificate of rehabilitation. The county clerk shall have a sufficient number of these forms printed to meet the needs of the people of his county, and he shall make these forms available at no charge to persons requesting them.

SEC. 43. Section 5001 of the Penal Code is amended to read:

5001. The department is composed of the Director of Corrections, the Board of Prison Terms, and the Correctional Industries Commission.

SEC. 44. Section 5002 of the Penal Code is amended to read:

5002. (a) The department shall succeed to and is hereby vested with all of the powers and duties exercised and performed by the following departments, boards, bureaus, commissions and officers when such powers and duties are not otherwise vested by law:

(1) The Department of Penology.

(2) The State Board of Prison Directors.

(3) The Board of Prison Terms and Paroles.

(4) The Advisory Pardon Board.

(5) The Bureau of Paroles.

(6) The warden and the clerk of the California State Prison at San Quentin.

(7) The warden and the clerk of the California State Prison at Folsom.

(8) The warden or superintendent of and the clerk of the California Institution for Men.

(9) The California Crime Commission.

(b) Whenever any designation of any of the departments, boards, bureaus, commissions or officers mentioned in subdivision (a) is contained in any provision of law and such designation is expressly made to refer to the Department of Corrections, the Board of Corrections or the Board of Prison Terms, then the Department of Corrections, the Board of Corrections or the Board of Prison Terms, to whichever one the designation is made to refer, shall exercise the power or perform the duty heretofore exercised or performed by the particular departments, boards, bureaus, or officers mentioned in subdivision (a).

(c) The powers and duties of the State Board of Prison Directors and of the clerks of the state prisons and the California Institution for Men are transferred to and shall be exercised and performed by the Department of Corrections, except as may be otherwise expressly provided by law.

(d) The powers and duties of wardens of the state prisons and the California Institution for Men, presently or hereafter, expressly vested by law in them shall be exercised by them but such exercise shall be subject to the supervision and control of the Director of Corrections. All powers and duties not expressly vested in the wardens are transferred to and shall be exercised and performed by the Department of Corrections. When the designation of warden is expressly made to refer to the Department of Corrections, the department shall exercise the power and perform the duty heretofore exercised or performed by the warden.

(e) The powers and duties of the Advisory Pardon Board and the Board of Prison Terms and Paroles are transferred to and shall be exercised and performed by the Board of Prison Terms, except as may be otherwise expressly provided by law.

SEC. 45. Section 5003.5 of the Penal Code is amended to read:

5003.5. The Board of Prison Terms is empowered to advise and recommend to the Director of Corrections on general and specific policies and procedures relating to the duties and functions of the director. The director is empowered to advise and recommend to the Board of Prison Terms on matters of general and specific policies and procedures, relating to the duties and functions of the board. The director and the board shall meet for purposes of exchange of information and advice.

It is the intention of the Legislature that the Board of Prison Terms and the Director of Corrections shall cooperate with each other in the establishment of the classification, transfer, and discipline

policies of the Department of Corrections, to the end that the objectives of the State Correctional System can best be attained. The director and the Board of Prison Terms shall, not less than four times each calendar year, meet for the purpose of discussion of classification, transfer, and discipline policies and problems and it is the intent of the Legislature that whenever possible there shall be agreement on these subjects. But for the purpose of maintaining responsibility for the secure and orderly administration of the prison system, the Director of Corrections shall have the final right to determine the policies on classification, transfer and discipline.

In the event there is no agreement the Board of Prison Terms shall file in writing with the Board of Corrections a statement of its proposals or recommendations to the director, and the director shall answer such statement in writing to the Board of Prison Terms, and a copy of both documents shall be transmitted to the Governor and to the Board of Corrections.

SEC. 46. Section 5011 of the Penal Code is amended to read:

5011. (a) The Department of Corrections shall not require, as a condition for any form of treatment or custody that the department offers, an admission of guilt to any crime for which an inmate was committed to the custody of the department.

(b) The Board of Prison Terms shall not require, when setting parole dates, an admission of guilt to any crime for which an inmate was committed.

SEC. 47. The heading of Chapter 3 (commencing with Section 5075) of Title 3 of Part 3 of the Penal Code is amended to read:

CHAPTER 3. THE BOARD OF PRISON TERMS

SEC. 48. Section 5075 of the Penal Code is amended to read:

5075. The Board of Prison Terms shall be composed of nine members, each of whom shall be appointed by the Governor, with the advice and consent of the Senate, for a term of four years and until the appointment and qualification of his successor. Members shall be eligible for reappointment.

The chairman of the board shall be designated by the Governor from time to time. The chairman shall be the administrative head of the board and shall exercise all duties and functions necessary to insure that the responsibilities of the board are successfully discharged. He shall be the appointing authority for all civil service positions of employment in the board.

The terms of the members shall expire as follows: two on March 15, 1978, two on March 15, 1979, two on March 15, 1980, and three on March 15, 1981. Successor members shall hold office for terms of four years, each term to commence on the expiration date of the term of the predecessor. The Governor shall fill every vacancy for the balance of the unexpired term. The selection of persons and their appointment by the Governor and confirmation by the Senate shall reflect as nearly as possible a cross-section of the racial, sexual,

economic, and geographic features of the population of the state.

It is the further intent of this section that the board shall adopt such policies and practices as will permit continuing operations and improvements without any further increase in the number of its members.

SEC. 49. Section 5076 of the Penal Code is amended to read:

5076. Each member of the board shall devote his entire time to the duties of his office and shall receive an annual salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 50. Section 5076.1 of the Penal Code is amended to read:

5076.1. The board shall meet at each of the state prisons at such times as may be necessary for a full and complete study of the cases of all prisoners whose applications for parole come before it. Other times and places of meeting may also be fixed by the board. Each member of the board shall receive his actual necessary traveling expenses incurred in the performance of his official duties. Where the board performs its functions by meeting en banc in either public or executive sessions to decide matters of general policy, at least five members shall be present, and no such action shall be valid unless it is concurred in by a majority vote of those present.

The board may meet and transact business in panels. Each panel shall consist of at least three persons. No action shall be valid unless concurred in by a majority vote of the persons present.

Consideration of parole release for persons sentenced to life imprisonment pursuant to subdivision (b) of Section 1168 shall be heard by a panel, a majority of whose members are members of the Board of Prison Terms. A recommendation for recall of a sentence under subdivisions (c) and (f) of Section 1170 shall be made by a panel, a majority of whose members are members of the Board of Prison Terms.

The board may employ representatives to whom it may assign appropriate duties, including that of hearing cases and making decisions. Such decisions shall be made in accordance with policies approved by a majority of the total membership of the board.

SEC. 51. Section 5076.2 of the Penal Code is amended to read:

5076.2. (a) Any rules and regulations, including any resolutions and policy statements, promulgated by the Board of Prison Terms, shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The Board of Prison Terms shall maintain, publish and make available to the general public, a compendium of its rules and regulations, including any resolutions and policy statements, promulgated pursuant to this section.

(c) The following exception to the procedures specified in this section shall apply to the Board of Prison Terms: the chairman may specify an effective date that is any time more than 30 days after the

rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to such effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

SEC. 52. Section 5077 of the Penal Code is amended to read:

5077. The Board of Prison Terms shall review all prisoners' requests for reconsideration of denial of good-time credit, and setting of parole length or conditions, and shall have the authority to modify the previously made decisions of the Department of Corrections as to these matters. The revocation of parole shall be determined by the Board of Prison Terms.

SEC. 53. Section 5078 of the Penal Code is amended to read:

5078. (a) The Board of Prison Terms shall succeed to and shall exercise and perform all powers and duties granted to, exercised by, and imposed upon the Adult Authority, the California Women's Board of Terms and Paroles, and the Community Release Board.

(b) The Adult Authority and California Women's Board of Terms and Paroles are abolished.

SEC. 54. Section 5080 of the Penal Code is amended to read:

5080. The Director of Corrections may transfer persons confined in one state prison institution or facility of the Department of Corrections to another. The Board of Prison Terms may request the Director of Corrections to transfer an inmate who is under its parole-granting jurisdiction if, after review of the case history in the course of routine procedures, such transfer is deemed advisable for the further diagnosis, and treatment of the inmate. The director shall as soon as practicable comply with such request, provided that, if facilities are not available he shall report that fact to the Board of Prison Terms and shall make the transfer as soon as facilities become available; provided further, that if in the opinion of the Director of Corrections such transfer would endanger security he may report that fact to the Board of Prison Terms and refuse to make such transfer.

When transferring an inmate from one state prison, institution, or facility of the Department of Corrections to another, the director may, as necessary or convenient, authorize transportation via a route that lies partly outside this state.

SEC. 55. Section 5081 of the Penal Code is amended to read:

5081. The Governor may remove any member of the Board of Prison Terms for misconduct, incompetency or neglect of duty after a full hearing by the Board of Corrections.

SEC. 56. Section 5082 of the Penal Code is amended to read:

5082. (a) Such employees of the Board of Prison Terms as are needed to carry out its functions shall be selected and appointed pursuant to the State Civil Service Act. Nothing shall prohibit the Board of Prison Terms from employing any person employed formerly by the Adult Authority or Women's Board of Terms and Paroles.

(b) The provisions of Chapter 6 (commencing with Section 6050) of this title, relating to the employment of personnel by the department, do not apply to the employees of the Board of Prison Terms.

SEC. 57. Section 5089 of the Penal Code is amended to read:

5089. The Board of Prison Terms may designate a representative who shall be notified of the time and place of meetings of the Correctional Industries Commission, and may attend such meetings and participate in the deliberations of the commission, but shall have no vote.

SEC. 58. Section 6025.5 of the Penal Code is amended to read:

6025.5. The Director of Corrections, Board of Prison Terms, the Youth Authority Board, and the Director of the Youth Authority shall file with the Board of Corrections for information of the board or for review and advice to the respective agency as the board may determine, all rules, regulations and manuals relating to or in implementation of policies, procedures, or enabling laws.

SEC. 59. Section 11193 of the Penal Code is amended to read:

11193. Any inmate sentenced under California law who is imprisoned in another state, pursuant to a compact, shall be entitled to all hearings, within 120 days of the time and under the same standards, which are normally accorded to persons similarly sentenced who are confined in institutions in this state. If the inmate consents in writing, such hearings may be conducted by the corresponding agencies or officials of such other jurisdiction. The Board of Prison Terms or its duly authorized representative is hereby authorized and directed to hold such hearings as may be requested by such other jurisdiction or the inmate pursuant to this section or to Article IV (f) of the Interstate Corrections Compact or of the Western Interstate Corrections Compact.

SEC. 60. Section 11194 of the Penal Code is amended to read:

11194. The Director of Corrections is hereby empowered to enter into such contracts on behalf of this state as may be appropriate to implement the participation of this state in the Interstate Corrections Compact and the Western Interstate Corrections Compact pursuant to Article III thereof. No such contract shall be of any force or effect until approved by the Director of General Services. Such contracts may authorize confinement of inmates in, or transfer of inmates from, only such institutions in this state as are under the jurisdiction of the Department of Corrections, and no such contract may provide for transfer out of this state of any person committed to the custody of the Director of the Youth Authority. No such contract may authorize the confinement of an inmate, who is in the custody of the Director of Corrections, in an institution of a state other than a state that is a party to the Interstate Corrections Compact or to the Western Interstate Corrections Compact. The Director of Corrections, subject to the approval of the Board of Prison Terms, must first determine, on the basis of an inspection made by his direction, that such institution of another state is a

suitable place for confinement of prisoners committed to his custody before entering into a contract permitting such confinement, and shall, at least annually, redetermine the suitability of such confinement. In determining the suitability of such institution of another state, the director shall assure himself that such institution maintains standards of care and discipline not incompatible with those of the State of California and that all inmates therein are treated equitably, regardless of race, religion, color, creed or national origin.

SEC. 61. Section 13011 of the Penal Code is amended to read:

13011. The department may serve as statistical and research agency to the Department of Corrections, the Board of Prison Terms, the Board of Corrections, and the Department of the Youth Authority.

SEC. 62. Section 13020 of the Penal Code is amended to read:

13020. It shall be the duty of every constable, city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him;

(b) To report statistical data to the department at such times and in such manner as the Attorney General prescribes; and

(c) To give to the Attorney General, or his accredited agent, access to statistical data for the purpose of carrying out the provisions of this title.

SEC. 63. Section 6316.1 of the Welfare and Institutions Code is amended to read:

6316.1. (a) In the case of any person found to be a mentally disordered sex offender who committed a felony on or after July 1, 1977, the court shall state in the commitment order the maximum term of commitment, and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in Section 6316.2. For the purposes of this section, "maximum term of commitment" shall mean the longest term of imprisonment which could have been imposed for the offense or offenses of which the defendant was convicted, including the upper term of the base offense and any additional terms for enhancements and consecutive sentences which could have been imposed less any applicable credits as defined by Section 2900.5 of the Penal Code and disregarding any credits which could have been earned under

Sections 2930 to 2932, inclusive, of the Penal Code.

(b) In the case of a person found to be a mentally disordered sex offender who committed a felony prior to July 1, 1977, who could have been sentenced under Section 1168 or 1170 of the Penal Code if the offense were committed after July 1, 1977, the Board of Prison Terms shall determine the maximum term of commitment which could have been imposed under subdivision (a), and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in Section 6316.2.

In fixing a term under this section, the board shall utilize the upper term of imprisonment which could have been imposed for the offense or offenses of which the defendant was convicted, increased by any additional terms which could have been imposed based on matters which were found to be true in the committing court. However, if at least two of the members of the board after reviewing the person's file determine that a longer term should be imposed for the reasons specified in Section 1170.2 of the Penal Code, a longer term may be imposed following the procedures and guidelines set forth in Section 1170.2 of the Penal Code, except that any hearings deemed necessary by the board shall be held before April 1, 1978. Within 90 days of July 1, 1977, or of the date the person is received by the State Department of Mental Health, whichever is later, the Board of Prison Terms shall provide each person committed pursuant to Section 6316 with the determination of his maximum term of commitment or shall notify such person that he will be scheduled for a hearing to determine his term.

Within 20 days following the determination of the maximum term of commitment the board shall provide the person committed, the prosecuting attorney, the committing court, and the State Department of Mental Health with a written statement setting forth the maximum term of commitment, the calculations, the statements, the recommendations, and any other materials considered in determining the maximum term.

(c) In the case of a person found to be a mentally disordered sex offender who committed a misdemeanor, whether before or after July 1, 1977, the maximum term of commitment shall be the longest term of county jail confinement which could have been imposed for the offense or offenses of which the defendant was convicted, and the person may not be kept in actual custody longer than this maximum term. The provisions of this subdivision shall be applied retroactively.

(d) Nothing in this section limits the power of the State Department of Mental Health or of the committing court to release the person, conditionally or otherwise, for any period of time allowed by any other provision of law.

SEC. 64. It is the intent of the Legislature that Sections 1 to 30, inclusive, 32 to 48, inclusive, and 50 to 63, inclusive, of this act shall only effect a change of name from the Community Release Board to the Board of Prison Terms. Any section of any act enacted by the

Legislature during the 1979 portion of the 1979–80 Regular Session, which takes effect on or before January 1, 1980, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by Sections 1 to 30, inclusive, 32 to 48, inclusive, and 50 to 63, inclusive, of this act, shall prevail over such sections of this act, whether such act is enacted prior to or subsequent to this act.

CHAPTER 256

An act to amend Sections 10725 and 14105 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 11, 1979. Filed with Secretary of State July 11, 1979.]

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

SECTION 1. Section 10725 of the Welfare and Institutions Code is amended to read:

10725. The director may adopt regulations, orders, or standards of general application to implement, interpret, or make specific the law enforced by the department, and such regulations, orders, and standards shall be adopted, amended, or repealed by the director only in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, provided that regulations relating to services need not be printed in the California Administrative Code or California Administrative Register if they are included in the publications of the department. Such authority also may be exercised by the director's designee.

In adopting regulations the director shall strive for clarity of language which may be readily understood by those administering services or subject to such regulations.

The rules of the department need not specify or include the detail of forms, reports or records, but shall include the essential authority by which any person, agency, organization, association or institution subject to the supervision or investigation of the department is required to use, submit or maintain such forms, reports or records.

SEC. 2. Section 14105 of the Welfare and Institutions Code is amended to read:

14105. (a) The director shall prescribe the policies to be followed in the administration of this chapter, may limit the rates of payment for health care services, and shall adopt such rules and regulations as are necessary for carrying out, not inconsistent with, the provisions thereof.

Such policies and regulations shall include rates for payment for

proof of eligibility has been provided. The form and content of such receipts shall be determined by the provider but shall be sufficient to comply with the intent of this subdivision. Skilled nursing facilities and intermediate care facilities are exempt from the requirements of this subdivision.

SEC. 2. Section 2 of Chapter 672 of the Statutes of 1976 is repealed.

CHAPTER 860

An act to amend Sections 11501.5, 11555, and 11556 of the Government Code, to amend Sections 6025.5, 13011, and 13020 of the Penal Code, and to amend Sections 731, 780, 1000.7, 1009, 1176, 1177, 1178, 1703, 1737.1, 1753, 1754, 1757, 1760, 1765, 1766, 1767.3, 1767.4, 1767.5, 1772, 1776, 1780, 1782, 1800, 1802, and 1830 of, to add Article 2 (commencing with Section 1710) and Article 2.5 (commencing with Section 1716) to Chapter 1 of Division 2.5 of, and to repeal Article 2 (commencing with Section 1710) of Chapter 1 of Division 2.5 and Sections 1751, 1762, 1764, and 1767 of, the Welfare and Institutions Code, relating to the Youth Authority.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 11501.5 of the Government Code, as amended by Chapter 255 of the Statutes of 1979, is amended to read:

11501.5. (a) The following state agencies shall provide language assistance at adjudicatory hearings pursuant to subdivision (d) of Section 11513:

Agricultural Labor Relations Board
State Department of Alcohol and Drug Abuse
Athletic Commission
California Unemployment Insurance Appeals Board
Board of Prison Terms
Board of Cosmetology
State Department of Developmental Services
Public Employment Relations Board
Franchise Tax Board
State Department of Health Services
Department of Housing and Community Development
Department of Industrial Relations
State Department of Mental Health
Department of Motor Vehicles
Notary Public Section, office of the Secretary of State
Public Utilities Commission
Office of Statewide Health Planning and Development

State Department of Social Services
Workers' Compensation Appeals Board
Department of the Youth Authority
Youthful Offender Parole Board
Bureau of Employment Agencies
Board of Barber Examiners
Department of Insurance
State Personnel Board

(b) Nothing in this section shall be construed to prevent any agency other than those listed in subdivision (a) from electing to adopt any of the procedures set forth in subdivision (d), (e), (f), (g), (h), or (i) of Section 11513, except that the State Personnel Board shall determine the general language proficiency of prospective interpreters as described in subdivisions (d) and (e) of Section 11513 unless otherwise provided for as described in subdivision (f) of Section 11513.

SEC. 2. Section 11555 of the Government Code, as amended by Chapter 255 of the Statutes of 1979, is amended to read:

11555. An annual salary of twenty-six thousand two hundred fifty dollars ($26,250) shall be paid to the following:

(a) Chairman of the Board of Prison Terms
(b) Chairman of the State Water Resources Control Board
(c) Chairman of the Youthful Offender Parole Board.

SEC. 3. Section 11556 of the Government Code, as amended by Chapter 255 of the Statutes of 1979, is amended to read:

11556. An annual salary of twenty-five thousand dollars ($25,000) shall be paid to each of the following:

(a) Director of Navigation and Ocean Development
(b) Director, Office of Emergency Services
(c) Members of the Board of Prison Terms
(d) Members of the State Water Resources Control Board
(e) Members of the Youthful Offender Parole Board
(f) State Fire Marshal.

SEC. 4. Section 6025.5 of the Penal Code, as amended by Chapter 255 of the Statutes of 1979, is amended to read:

6025.5. The Director of Corrections, Board of Prison Terms, the Youthful Offender Parole Board, and the Director of the Youth Authority shall file with the Board of Corrections for information of the board or for review and advice to the respective agency as the board may determine, all rules, regulations and manuals relating to or in implementation of policies, procedures, or enabling laws.

SEC. 5. Section 13011 of the Penal Code, as amended by Chapter 255 of the Statutes of 1979, is amended to read:

13011. The department may serve as statistical and research agency to the Department of Corrections, the Board of Prison Terms, the Board of Corrections, the Department of the Youth Authority, and the Youthful Offender Parole Board.

SEC. 6. Section 13020 of the Penal Code, as amended by Chapter 255 of the Statutes of 1979, is amended to read:

13020. It shall be the duty of every constable, city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him;

(b) To report statistical data to the department at such times and in such manner as the Attorney General prescribes; and

(c) To give to the Attorney General, or his accredited agent, access to statistical data for the purpose of carrying out the provisions of this title.

SEC. 7. Section 731 of the Welfare and Institutions Code is amended to read:

731. When a minor is adjudged a ward of the court on the ground that he or she is a person described by Section 602, the court may order any of the types of treatment referred to in Sections 727 and 730, and, in addition may order the ward to make restitution or to participate in uncompensated work programs or may commit the ward to a sheltered-care facility or may order that the ward and his or her family or guardian participate in a program of professional counseling as arranged and directed by the probation officer as a condition of continued custody of such minor or may commit the minor to the Department of the Youth Authority.

A minor committed to the Department of the Youth Authority may not be held in physical confinement for a period of time in excess of the maximum period of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court. Nothing in this section limits the power of the Youthful Offender Parole Board to retain the minor on parole status for the period permitted by Section 1769.

SEC. 8. Section 780 of the Welfare and Institutions Code is amended to read:

780. If any person who has been committed to the Youth Authority appears to be an improper person to be received by or retained in any institution or facility under the jurisdiction of the Youth Authority or to be so incorrigible or so incapable of reformation under the discipline of any institution or facility under the jurisdiction of the Youth Authority as to render his or her retention detrimental to the interests of the Youth Authority, the Youthful Offender Parole Board may order the return of such person

to the committing court. However, the return of any person to the committing court does not relieve the Department of the Youth Authority of any of its duties or responsibilities under the original commitment, and such commitment continues in full force and effect until it is vacated, modified, or set aside by order of the court.

When any such person is so returned to the committing court, his or her transportation shall be made, and the compensation therefor paid, as provided for the execution of an order of commitment.

SEC. 9. Section 1000.7 of the Welfare and Institutions Code is amended to read:

1000.7. As used in this chapter, "Youth Authority" "Authority" and "the Authority" mean and refer to the Department of the Youth Authority and "Board" means and refers to the Youthful Offender Parole Board.

SEC. 10. Section 1009 of the Welfare and Institutions Code is amended to read:

1009. The Youthful Offender Parole Board may order the return of nonresident persons committed to the Department of the Youth Authority or confined in institutions or facilities subject to the jurisdiction of the department to the states in which they have legal residence. Whenever any public officer (other than an officer or employee of the Youth Authority) receives from any private source any moneys to defray the cost of such transportation, he or she shall immediately transmit such moneys to the Youth Authority. All such moneys, together with any moneys received directly by the authority from private sources for transportation of nonresidents, shall be deposited by the Youth Authority in the State Treasury, in augmentation of the current appropriation for the support of the Youth Authority.

SEC. 11. Section 1176 of the Welfare and Institutions Code is amended to read:

1176. When, in the opinion of the Youthful Offender Parole Board, any person committed to or confined in any such school deserves parole according to regulations established for the purpose, and it will be to his or her advantage to be paroled, the board may grant parole under such conditions as it deems best. A reputable home or place of employment shall be provided for each person so paroled.

SEC. 12. Section 1177 of the Welfare and Institutions Code is amended to read:

1177. When any person so paroled has proved his or her ability for honorable self-support, the Youthful Offender Parole Board shall give him or her honorable discharge. Any person on parole who violates the conditions of his or her parole may be returned to the Youth Authority.

SEC. 13. Section 1178 of the Welfare and Institutions Code is amended to read:

1178. The Youthful Offender Parole Board may grant honorable discharge to any person committed to or confined in any such school.

The reason for such discharge shall be entered in the records.

SEC. 14. Section 1703 of the Welfare and Institutions Code is amended to read:

1703. As used in this chapter

(a) "Public offenses" means public offenses as that term is defined in the Penal Code;

(b) "Court" includes any official authorized to impose sentence for a public offense;

(c) "Youth Authority", "Authority", "authority" or "department" means the Department of the Youth Authority;

(d) "Board" or "board" means the Youthful Offender Parole Board.

(e) The masculine pronoun includes the feminine.

SEC. 15. Article 2 (commencing with Section 1710) of Chapter 1 of Division 2.5 of the Welfare and Institutions Code is repealed.

SEC. 16. Article 2 (commencing with Section 1710) is added to Chapter 1 of Division 2.5 of the Welfare and Institutions Code, to read:

Article 2. Department of the Youth Authority

1710. There is a Department of the Youth Authority.

1711. The Director of the Youth Authority shall be appointed by the Governor with the advice and consent of the Senate. He or she shall hold office at the pleasure of the Governor but before the director may be removed, the procedures set forth in Section 5051 of the Penal Code shall be followed. He or she shall receive an annual salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code, and shall devote his or her entire time to the duties of his or her office.

1712. (a) All powers, duties, and functions pertaining to the care and treatment of wards provided by any provision of law and not specifically and expressly assigned to the Youthful Offender Parole Board shall be exercised and performed by the director. The director shall be the appointing authority for all civil service positions of employment in the department. The director may delegate the powers and duties vested in him or her by law, in accordance with Section 7.

(b) The director is authorized to make and enforce all rules appropriate to the proper accomplishment of the functions of the Department of the Youth Authority. Such rules shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(c) The Department of the Youth Authority shall maintain, publish, and make available to the general public, a compendium of rules and regulations promulgated by the department pursuant to this section.

(d) The following exceptions to the procedures specified in this section shall apply to the Department of the Youth Authority:

(1) The department may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to such effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

(2) The department may rely upon a summary of the information compiled by a hearing officer; provided that the summary and the testimony taken regarding the proposed action shall be retained as part of the public record for at least one year after the adoption, amendment, or repeal.

1713. (a) The Director of the Youth Authority shall have wide and successful administrative experience in youth or adult correctional programs embodying rehabilitative or delinquency prevention concepts.

(b) The Governor may request the State Personnel Board to use extensive recruitment and merit selection techniques and procedures to provide a list of persons qualified for appointment as Director of the Youth Authority. The Governor may appoint any person from such list of qualified persons or may reject all names and appoint another person who meets the requirements of this section.

1714. (a) It is the intention of the Legislature that the Youthful Offender Parole Board and the Director of the Youth Authority shall cooperate with each other in the establishment of the classification, transfer, discipline, training, and treatment policies of the Department of the Youth Authority, to the end that the objectives of the state youth correctional system can best be attained. The director and the board shall, not less than four times each calendar year, meet for the purpose of discussion of classification, transfer, discipline, training, and treatment policies and problems, and for the purpose of discussion of policies relating to the functions and duties of the board, and it is the intent of the Legislature that whenever possible there shall be agreement on these subjects; however in order to maintain responsibility for the secure and orderly administration of the Youth Authority, the Director of the Youth Authority shall have the final right to determine the policies on classification, transfer, discipline, training and treatment, and the board shall have the final right to determine the policies on its duties and functions.

(b) The Director of the Youth Authority may transfer persons confined in one institution or facility of the Department of the Youth Authority to another. The Youthful Offender Parole Board may request the director to transfer a person who is under the jurisdiction of the department pursuant to Section 1731.5 if, after review of the case history in the course of routine procedures, such transfer is deemed advisable for the further diagnosis and treatment of the ward. The director shall as soon as practicable comply with such

request, provided that, if facilities are not available he or she shall report that fact to the board and shall make the transfer as soon as facilities become available; provided further, that if in the opinion of the director such transfer would endanger security he or she may report that fact to the board and refuse to make such transfer.

1715. From funds available for the support of the Youth Authority, the director may reimburse persons employed by the authority and certified as radiologic technologists pursuant to Chapter 7.4 (commencing with Section 25660) of Division 20 of the Health and Safety Code for the fees incurred both in connection with the obtaining of such certification since July 1, 1971, and with regard to the renewal thereof.

SEC. 17. Article 2.5 (commencing with Section 1716) is added to Chapter 1 of Division 2.5 of the Welfare and Institutions Code, to read:

Article 2.5. Youthful Offender Parole Board

1716. (a) There is a Youthful Offender Parole Board, which shall be composed of seven members, each of whom shall be appointed by the Governor, with the advice and consent of the Senate, for a term of four years and until the appointment and qualification of his or her successor, and who shall devote their entire time to its work.

(b) The individuals who were members of the Youth Authority Board immediately prior to the effective date of this section, other than the individual who was Director of the Department of the Youth Authority and Chairman of the Youth Authority Board, shall continue in their respective terms of office as members of the Youthful Offender Parole Board. The term of the member appointed to the term commencing March 15, 1976 shall expire March 15, 1980. The terms of the two members appointed to the terms commencing March 15, 1977 shall expire March 15, 1981. The terms of the two members appointed to the terms commencing March 15, 1978 shall expire March 15, 1982. The terms of the two members appointed to the terms commencing March 15, 1979 shall expire March 15, 1983. The members shall be eligible for reappointment and shall hold office until the appointment and qualification of their successors, with the term of each new appointee to commence on the expiration date of the term of his or her predecessor.

(c) All appointments to a vacancy occurring by reason of any cause other than the expiration of a term shall be for the unexpired term. Each member shall hold office until the appointment and qualification of his or her successor.

(d) If the Senate, in lieu of failing to confirm, finds that it cannot consider all or any of the appointments to the Youthful Offender Parole Board adequately because the amount of legislative business and the probable duration of the session does not permit, it may adopt a single house resolution by a majority vote of all members elected to the Senate to that effect and requesting the resubmission

of the unconfirmed appointment or appointments at a succeeding session of the Legislature, whether regular or extraordinary, convening on or after a date fixed in the resolution. This resolution shall be filed immediately after its adoption in the office of the Secretary of State and the appointee or appointees affected shall serve subject to later confirmation or rejection by the Senate.

1717. (a) Persons appointed to the Youthful Offender Parole Board shall have a broad background in and ability for appraisal of youthful law offenders and delinquents, the circumstances of delinquency for which committed, and the evaluation of the individual's progress toward reformation. Insofar as practicable, members shall be selected who have a varied and sympathetic interest in youth correction work including persons widely experienced in the fields of corrections, sociology, law, law enforcement, and education.

(b) The selection of persons and their appointment by the Governor and confirmation by the Senate shall reflect as nearly as possible a cross section of the racial, sexual, economic, and geographic features of the state.

(c) One member of the board shall be designated as chairman by the Governor. The chairman shall be the administrative head of the board and shall exercise all duties and functions necessary to insure that the responsibilities of the board are successfully discharged. He or she shall be the appointing authority for all civil service positions of employment in the board.

1718. (a) The chairman and members of the board shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code and their actual necessary traveling expenses to the same extent as is provided for other state offices.

(b) The Governor may remove any member of the board for misconduct, incompetency or neglect of duty after a full hearing by the Board of Corrections.

1719. The following powers and duties shall be exercised and performed by the Youthful Offender Parole Board as such, or may be delegated to a panel, member, or case hearing representative as provided in Section 1721: return of persons to the court of commitment for redisposition by the court, discharge of commitment, orders to parole and conditions thereof, revocation or suspension of parole, recommendation for treatment program, determination of the date of next appearance, return of nonresident persons to the jurisdiction of the state of legal residence.

1720. (a) The case of each ward shall be heard by the board immediately after the case study of the ward has been completed and at such other times as is necessary to exercise the powers or duties of the board.

(b) The board shall periodically review the case of each ward for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. These

reviews shall be made as frequently as the board considers desirable and shall be made with respect to each ward at intervals not exceeding one year.

(c) Failure of the board to hear or review the case of a ward as required by this section shall not of itself entitle the ward to discharge from the control of the Youth Authority but shall entitle him or her to petition the superior court of the county from which he or she was committed for an order of discharge, and the court shall discharge him or her unless the court is satisfied as to the need for further control.

1721. (a) The Youthful Offender Parole Board shall adopt policies governing the performance of its functions by the full board, or, pursuant to delegation, by panels, or referees. Where the board performs its functions meeting en banc in either public or executive sessions to decide matters of policy, at least five members shall be present and no such action shall be valid unless it is concurred in by a majority vote of those present.

(b) Case hearing representatives may be employed to participate with the board in the hearing of cases and to whom authority may be delegated as provided in this section.

(c) The board may delegate its authority to hear, consider, and act upon cases to members or case hearing representatives, sitting either on a panel or as a referee. A panel may consist of two or more members, a member and a case hearing representative, or two case hearing representatives. Two members of a panel shall constitute a quorum, and no action of the panel shall be valid unless concurred in by a majority vote of those present.

(d) When delegating its authority, the board may condition finality of the decision of the panel or referee to whom authority is delegated on concurrence of a member or members of the board. In determining whether, in any case, it shall delegate its authority and the extent of such delegation, the board shall take into account the degree of complexity of the issues presented by the case.

(e) The board shall adopt rules under which a person under the jurisdiction of the Youth Authority or other persons, as specified in such rules, may appeal any decision of a case hearing representative. The board shall consider and act upon the appeal in accordance with such rules.

1722. (a) Any rules and regulations, including any resolutions and policy statements, promulgated by the Youthful Offender Parole Board, shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11731) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The board shall maintain, publish and make available to the general public, a compendium of its rules and regulations, including any resolutions and policy statements, promulgated pursuant to this section.

(c) The following exception to the procedures specified in this

section shall apply to the board: The chairman may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to such effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

1723. (a) Except as provided in Section 1721, every order granting and revoking parole and issuing final discharges to any person under the jurisdiction of the Youth Authority shall be made by the Youthful Offender Parole Board and the board may not delegate the making of such decisions to any other body or person.

(b) All other powers conferred to the Youthful Offender Parole Board may be exercised through subordinates or delegated to the Department of the Youth Authority under rules established by the board. Any person subjected to an order of such subordinates or of the department pursuant to such delegation may petition the board for review. The board may review such orders under appropriate rules and regulations.

1724. The Youthful Offender Parole Board is limited in its expenditures to funds specifically made available for its use.

1725. The Youthful Offender Parole Board shall succeed to and shall exercise and perform all powers and duties granted to, exercised by, and imposed upon the Youth Authority Board. The Youth Authority Board is abolished.

1726. (a) Such employees of the Youthful Offender Parole Board as are needed to carry out its functions shall be selected and appointed pursuant to the State Civil Service Act.

(b) All officers and employees of the Department of the Youth Authority who on the effective date of this section are serving in the state civil service, other than as temporary employees, as part of the direct staff of the Youth Authority Board, including, but not limited to, those officers and employees performing the functions of administrative officer, case hearing representative, and case hearing coordinator, shall be transferred to the Youthful Offender Parole Board. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the Youthful Offender Parole Board pursuant to the State Civil Service Act.

SEC. 18. Section 1737.1 of the Welfare and Institutions Code is amended to read:

1737.1. Whenever any person who has been convicted of a public offense in adult court and committed to and accepted by the Youth Authority appears to the Youthful Offender Parole Board, either at the time of his or her first appearance before the board or thereafter, to be an improper person to be retained by the Youth Authority, or to be so incorrigible or so incapable of reformation under the discipline of the Youth Authority as to render his or her detention detrimental to the interests of the Youth Authority and the other

persons committed thereto, the board may order the return of such person to the committing court. The court may then commit him to a state prison or sentence him to a county jail as provided by law for punishment of the offense of which he was convicted. The maximum term of imprisonment for a person committed to a state prison under this section shall be a period equal to the maximum term prescribed by law for the offense of which he was convicted less the period during which he was under the control of the Youth Authority. This section shall not apply to commitments from juvenile court.

SEC. 19. Section 1751 of the Welfare and Institutions Code is repealed.

SEC. 20. Section 1753 of the Welfare and Institutions Code is amended to read:

1753. For the purpose of carrying out its duties, the department is authorized to make use of law enforcement, detention, probation, parole, medical, educational, correctional, segregative and other facilities, institutions and agencies, whether public or private, within the state. The director may enter into agreements with the appropriate public officials for separate care and special treatment in existing institutions of persons subject to the control of the department.

SEC. 21. Section 1754 of the Welfare and Institutions Code is amended to read:

1754. Nothing in this chapter shall be taken to give the Youthful Offender Parole Board or the director control over existing facilities, institutions or agencies; or to require them to serve the board or the director inconsistently with their functions, or with the authority of their officers, or with the laws and regulations governing their activities; or to give the board or the director power to make use of any private institution or agency without its consent; or to pay a private institution or agency for services which a public institution or agency is willing and able to perform.

SEC. 22. Section 1757 of the Welfare and Institutions Code is amended to read:

1757. The director may inspect all public institutions and agencies whose facilities he or she and the Youthful Offender Parole Board are authorized to utilize and all private institutions and agencies whose facilities he and the board are using. Every institution or agency, whether public or private, is required to afford the director reasonable opportunity to examine or consult with persons committed to the Youth Authority who are for the time being in the custody of the institution or agency.

SEC. 23. Section 1760 of the Welfare and Institutions Code is amended to read:

1760. The director is hereby authorized when necessary and when funds are available for such purposes to establish and operate

(a) Places for the detention, prior to examination and study, of all persons committed to the Youth Authority;

(b) Places for examination and study of persons committed to the

Youth Authority;

(c) Places of confinement, educational institutions, hospitals and other correctional or segregative facilities, institutions and agencies, for the proper execution of the duties of the Youth Authority;

(d) Agencies and facilities for the supervision, training and control of persons who have not been placed in confinement or who have been released from confinement by the Youthful Offender Parole Board upon conditions, and for aiding such persons to find employment and assistance;

(e) Agencies and facilities designed to aid persons who have been discharged by the Youthful Offender Parole Board from its control in finding employment and in leading a law-abiding existence.

SEC. 24. Section 1762 of the Welfare and Institutions Code is repealed.

SEC. 25. Section 1764 of the Welfare and Institutions Code is repealed.

SEC. 26. Section 1765 of the Welfare and Institutions Code is amended to read:

1765. (a) Except as otherwise provided in this chapter, the Youthful Offender Parole Board shall keep under continued study a person in its control and shall retain him or her, subject to the limitations of this chapter, under supervision and control so long as in its judgment such control is necessary for the protection of the public.

(b) The board shall discharge such person as soon as in its opinion there is reasonable probability that he or she can be given full liberty without danger to the public.

SEC. 27. Section 1766 of the Welfare and Institutions Code is amended to read:

1766. When a person has been committed to the Youth Authority, the Youthful Offender Parole Board may

(a) Permit him his liberty under supervision and upon such conditions as it believes best designed for the protection of the public.

(b) Order his or her confinement under such conditions as it believes best designed for the protection of the public, except that a person committed to the Youth Authority 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 period of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought the minor under the jurisdiction of the juvenile court, or which resulted in the commitment of the young adult to the Youth Authority. 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;

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

(d) Revoke or modify any order except an order of discharge as often as conditions indicate to be desirable;

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(e) Modify an order of discharge if conditions indicate that such modification is desirable and when such modification is to the benefit of the person committed to the authority;

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

SEC. 28. Section 1767 of the Welfare and Institutions Code is repealed.

SEC. 29. Section 1767.3 of the Welfare and Institutions Code is amended to read:

1767.3. (a) The Youthful Offender Parole Board may suspend, cancel, or revoke any parole and may order returned to custody of the department any person committed to it who is upon parole.

(b) The written order of the chairman of the board is a sufficient warrant for any peace officer to return to the custody of the department any person committed to it who is upon parole or who has been permitted his or her liberty upon condition.

(c) The written order of the Director of the Department of the Youth Authority is a sufficient warrant for any peace officer to return to the custody of the department, pending further proceedings before the Youthful Offender Parole Board, any person committed to the department who is upon parole or who has been permitted his or her liberty upon condition, or for any peace officer to return to the custody of the department any person committed to it who has escaped from the custody of the department or from any institution in which he or she has been placed by the department.

(d) All peace officers shall execute any such orders in like manner as ordinary criminal process.

SEC. 30. Section 1767.4 of the Welfare and Institutions Code is amended to read:

1767.4. Whenever any person paroled by the Youthful Offender Parole Board is returned to the department upon the order of the board by a peace officer or probation officer, the officer shall be paid the same fees and expenses as are allowed such officers by law for the transportation of persons to institutions or facilities under the jurisdiction of the department.

SEC. 31. Section 1767.5 of the Welfare and Institutions Code is amended to read:

1767.5. The authority may pay any private home for the care of any person committed to the authority and paroled by the Youthful Offender Parole Board to the custody of the private home (including both persons committed to the authority under this chapter and persons committed to it by the juvenile court) at a rate to be approved by the Department of Finance. Payments for such care of paroled persons may be made from funds available to the authority for such purpose, or for the support of the institution or facility under the jurisdiction of the authority from which the person has been paroled.

SEC. 32. Section 1772 of the Welfare and Institutions Code is amended to read:

1772. Every person honorably discharged from control by the Youthful Offender Parole Board who has not, during the period of control by the authority been placed by the authority in a state prison shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which he or she was committed, and every person discharged may petition the court which committed him or her, and the court may upon such petition set aside the verdict of guilty and dismiss the accusation or information against the petitioner who shall thereafter be released from all penalties and disabilities resulting from the offense or crime for which he or she was committed, including, but not limited to, any disqualification for any employment or occupational license, or both, created by any other provision of law. However, such a person shall not be eligible for appointment as a peace officer employed by any public agency, other than the Department of the Youth Authority, if his or her appointment would otherwise be prohibited by Section 1029 of the Government Code.

Every person discharged from control by the Youthful Offender Parole Board shall be informed of this privilege in writing at the time of discharge.

"Honorably discharged" as used in this section means and includes every person whose discharge is based upon a good record on parole.

SEC. 33. Section 1776 of the Welfare and Institutions Code is amended to read:

1776. Whenever an alleged parole violator is detained in a county detention facility pursuant to a valid exercise of the powers of the Department of the Youth Authority or of the Youthful Offender Parole Board as specified in Sections 1753, 1755, and 1767.3 and when such detention is initiated by the department or the board and is related solely to a violation of the conditions of parole and is not related to a new criminal charge, the county shall be reimbursed for the costs of such detention by the Department of the Youth Authority. Such reimbursement shall be expended for maintenance, upkeep, and improvement of juvenile hall and jail conditions, facilities, and services. Before the county is reimbursed by the department, the total amount of all charges against that county authorized by law for services rendered by the department shall be first deducted from the gross amount of the reimbursement authorized by this section. Such net reimbursement shall be calculated and paid monthly by the department. The department shall withhold all or part of such net reimbursement to a county whose juvenile hall or jail facilitiy or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 of the Penal Code or Section 210 of this code.

SEC. 33.5. Section 1776 of the Welfare and Institutions Code is amended to read:

1776. Whenever an alleged parole violator is detained in a county detention facility pursuant to a valid exercise of the powers of the Department of the Youth Authority or of the Youthful Offender

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Parole Board as specified in Sections 1753, 1755, and 1767.3 and when such detention is initiated by the department or the board and is related solely to a violation of the conditions of parole and is not related to a new criminal charge, the county shall be reimbursed for the costs of such detention by the Department of the Youth Authority. Such reimbursement shall be expended for maintenance, upkeep, and improvement of juvenile hall and jail conditions, facilities, and services. Before the county is reimbursed by the department, the total amount of all charges against that county authorized by law for services rendered by the department shall be first deducted from the gross amount of the reimbursement authorized by this section. Such net reimbursement shall be calculated and paid monthly by the department. The department shall withold all or part of such net reimbursement to a county whose juvenile hall or jail facility or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 of the Penal Code or Section 210 of this code.

"Costs of such detention", as used in this section, shall include the same cost factors as are utilized by the Department of Corrections in determining the cost of prisoner care in state correctional facilities.

SEC. 34. Section 1780 of the Welfare and Institutions Code is amended to read:

1780. If the date of discharge occurs before the expiration of a period of control equal to the maximum term prescribed by law for the offense of which he or she was convicted, and if the Youthful Offender Parole Board believes that unrestrained freedom for said person would be dangerous to the public, the board shall petition the court by which the commitment was made.

The petition shall be accompanied by a written statement of the facts upon which the board bases its opinion that discharge from its control at the time stated would be dangerous to the public, but no such petition shall be dismissed merely because of its form or an asserted insufficiency of its allegations; every order shall be reviewed upon its merits.

SEC. 35. Section 1782 of the Welfare and Institutions Code is amended to read:

1782. Such committing court may thereupon discharge the person, admit him or her to probation or may commit him or her to the state prison. The maximum term of imprisonment for a person committed to a state prison under this section shall be a period equal to the maximum term prescribed by law for the offense of which he or she was convicted less the period during which he or she was under the control of the Youth Authority.

SEC. 36. Section 1800 of the Welfare and Institutions Code is amended to read:

1800. Whenever the Youthful Offender Parole Board determines that the discharge of a person from the control of the Youth Authority at the time required by Section 1769, 1770, 1770.1, or 1771,

as applicable, would be physically dangerous to the public because of the person's mental or physical deficiency, disorder, or abnormality, the board, through its chairman, shall make application to the committing court for an order directing that the person remain subject to the control of the authority beyond such time. The application shall be filed at least 90 days before the time of discharge otherwise required. The application shall be accompanied by a written statement of the facts upon which the board bases its opinion that discharge from control of the Youth Authority at the time stated would be physically dangerous to the public, but no such application shall be dismissed nor shall an order be denied merely because of technical defects in the application.

SEC. 37. Section 1802 of the Welfare and Institutions Code is amended to read:

1802. When an order for continued detention is made as provided in Section 1801, the control of the authority over the person shall continue, subject to the provisions of this chapter, but, unless the person is previously discharged as provided in Section 1766, the Youthful Offender Parole Board shall, within two years after the date of such order in the case of persons committed by the juvenile court, or within five years after the date of such order in the case of persons committed after conviction in criminal proceedings, file a new application for continued detention in accordance with the provisions of Section 1800 if continued detention is deemed necessary. Such applications may be repeated at intervals as often as in the opinion of the board may be necessary for the protection of the public, except that the department shall have the power, in order to protect other persons in the custody of the department to transfer the custody of any person over 21 years of age to the Director of Corrections for placement in the appropriate institution.

Each person shall be discharged from the control of the authority at the termination of the period stated in this section unless the board has filed a new application and the court has made a new order for continued detention as provided above in this section.

SEC. 38. Section 1830 of the Welfare and Institutions Code is amended to read:

1830. The Director of the Youth Authority may, with approval of the Youthful Offender Parole Board, participate in a local work furlough program established pursuant to subdivision (a) of Section 1208 of the Penal Code, or conduct or discontinue a work furlough rehabilitation program, in accordance with the provisions of this article, for appropriate classes of wards at one or more Youth Authority institutions. He or she may designate any officer or employee of the department to be the Youth Authority work furlough administrator and may assign personnel to assist the administrator.

SEC. 39. It is the intent of the Legislature, if this bill and Assembly Bill 1088 are both chaptered and become effective January 1, 1980, both bills amend Section 1776 of the Welfare and Institutions

Code, and this bill is chaptered after Assembly Bill 1088, that the amendments to Section 1776 proposed by both bills be given effect and incorporated in Section 1776 in the form set forth in Section 33.5 of this act. Therefore, Section 33.5 of this act shall become operative only if this bill and Assembly Bill 1088 are both chaptered and become effective January 1, 1980, both amend Section 1776, and this bill is chaptered after Assembly Bill 1088, in which case Section 33 of this act shall not become operative.

CHAPTER 861

An act to amend Section 25100 of the Corporations Code, relating to corporations.

[Approved by Governor September 21, 1979. Filed with Secretary of State September 22, 1979.]

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

SECTION 1. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from the provisions of Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal land bank or joint land bank or national farm loan association or by any savings and loan association which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a

(commencing with Section 5250) of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means:

(1) A condition in which a person, as a result of a mental disorder, is unable to provide for his basic personal needs for food, clothing, or shelter; or

(2) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him and to assist counsel in the conduct of his defense in a rational manner.

For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his basic personal needs for food, clothing, or shelter.

The term "gravely disabled" does not include mentally retarded persons by reason of being mentally retarded alone;

(i) "Peace officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility;

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2 of this part;

(k) "Court," unless otherwise specified, means a court of record or a justice court;

(*l*) A gravely disabled minor is a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others.

SEC. 38.6. It is the intent of the Legislature, if this bill and Assembly Bill 1893 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 830.4 of the Penal Code, and this bill is chaptered after Assembly Bill 1893, that Section 830.4 of the Penal Code, as amended by Section 12 of this act, shall remain operative until the effective date of Assembly Bill 1893, and that on the effective date of Assembly Bill 1893, Section 830.4 of the

Penal Code, as amended by Section 12 of this act, be further amended in the form set forth in Section 12.5 of this act to incorporate the changes in Section 830.4 proposed by Assembly Bill 1893. Therefore, if this bill and Assembly Bill 1893 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 1893 is chaptered before this bill and amends Section 830.4, Section 12.5 of this act shall become operative on the effective date of Assembly Bill 1893.

SEC. 38.7. It is the intent of the Legislature, if this bill and Assembly Bill 3217 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 830.6 of the Penal Code, and this bill is chaptered after Assembly Bill 3217, that Section 830.6 of the Penal Code, as amended by Section 15 of this act, shall remain operative until the effective date of Assembly Bill 3217, and that on the effective date of Assembly Bill 3217, Section 830.6 of the Penal Code, as amended by Section 15 of this act, be further amended in the form set forth in Section 15.5 of this act to incorporate the changes in Section 830.6 proposed by Assembly Bill 3217. Therefore, if this bill and Assembly Bill 3217 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 3217 is chaptered before this bill and amends Section 830.6, Section 15.5 of this act shall become operative on the effective date of Assembly Bill 3217.

SEC. 38.8. It is the intent of the Legislature, if this bill and Senate Bill 1676 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 1808.4 of the Vehicle Code, and this bill is chaptered after Senate Bill 1676, that Section 1808.4 of the Vehicle Code, as amended by Section 29 of this act, shall remain operative until the effective date of Senate Bill 1676, and that on the effective date of Senate Bill 1676, Section 1808.4 of the Vehicle Code, as amended by Section 29 of this act, be further amended in the form set forth in Section 29.5 of this act to incorporate the changes in Section 1808.4 proposed by Senate Bill 1676. Therefore, if this bill and Senate Bill 1676 are both chaptered and become effective on or before January 1, 1981, and Senate Bill 1676 is chaptered before this bill and amends Section 1808.4, Section 29.5 of this act shall become operative on the effective date of Senate Bill 1676.

SEC. 38.9. It is the intent of the Legislature, if this bill and Senate Bill 1896 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 22702 of the Vehicle Code, and this bill is chaptered after Senate Bill 1896, that Section 22702 of the Vehicle Code, as amended by Section 38 of this act, shall remain operative until the effective date of Senate Bill 1896, and that on the effective date of Senate Bill 1896, Section 22702 of the Vehicle Code, as amended by Section 38 of this act, be further amended in the form set forth in Section 38.2 of this act to incorporate the changes in Section 22702 proposed by Senate Bill 1896. Therefore, if this bill and Senate Bill 1896 are both chaptered and become effective on or before January 1, 1981, and Senate Bill 1896 is chaptered before this

bill and amends Section 22702, Section 38.2 of this act shall become operative on the effective date of Senate Bill 1896.

SEC. 39. It is the intent of the Legislature that the changes effected by this act shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers, and duties; and that there shall be no change in the status of individuals for purposes of retirement, workers' compensation or similar injury or death benefits, or other employee benefits.

SEC. 40. The sum of three million five hundred thousand dollars ($3,500,000) is hereby appropriated from the Peace Officer's Training Fund to the Commission on Peace Officer Standards and Training in augmentation of Item 456 of the Budget Act of 1980 (Ch. 510, Stats. 1980) for allocation to cities, counties, cities and counties, or districts, for the purpose of reimbursing such jurisdictions for peace officer training.

SEC. 41. This act is an urgency statute necessary for the immediate peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Federal law requires that sworn peace officers be available at boarding stations in federally regulated airports throughout the State of California. In order to comply with this federal mandate, peace officer classifications must be created which will permit local governments to employ properly authorized personnel. In addition, state law mandates the responsibility of enforcing certain laws to state employees who are not currently authorized as peace officers to investigate such offenses. This bill would so authorize them.

CHAPTER 1341

An act to amend Sections 4555, 4700 and 4701 of, to add Section 196 to, and to repeal Section 196 of, the Civil Code, relating to family law.

[Approved by Governor September 30, 1980. Filed with Secretary of State September 30, 1980.]

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

SECTION 1. Section 196 of the Civil Code is repealed.

SEC. 2. Section 196 is added to the Civil Code, to read:

196. The father and mother of a child have an equal responsibility to support and educate their child in the manner suitable to the child's circumstances, taking into consideration the respective earnings or earning capacities of the parents.

SEC. 3. Section 4555 of the Civil Code is amended to read:

4555. (a) A final judgment made pursuant to Section 4553 shall not prejudice nor bar the rights of either of the parties to institute

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region, or county office shall be made to insure the highest quality educational offerings.

(n) Appropriate qualified staff are employed, consistent with credentialing requirements, to fulfill the responsibilities of the local plan and that positive efforts to employ qualified handicapped individuals are made.

(o) Regular and special education personnel are adequately prepared to provide educational instruction and services to individuals with exceptional needs.

SEC. 38. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code and Section 6 of Article XIII B of the California Constitution, no appropriation is made by this act pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 39. (a) The provisions of this act shall become operative on July 1, 1981, except as specified in subdivision (b).

(b) Sections 7, 16, 19, 24, 25, 32, 33, 34, and 35 of this act shall become operative on January 1, 1981.

CHAPTER 1340

An act to amend Section 7522 of the Business and Professions Code, to amend Section 8325 of the Health and Safety Code, to amend Sections 241, 243, 245, 830.1, 830.2, 830.3, 830.4, 830.5, 830.6, 831, 832, 12027, 12031, and 13012 of, to add Sections 830.31, 830.7, 830.8, and 830.10 to, and to repeal Sections 243.2, 243.4, 245.2, 245.4, 830.31, 830.35, 830.36, 830.5a, 830.7, 830.10, and 830.11 of, the Penal Code, to amend Sections 165, 1808.4, 2416, 22651, 22653, 22654, 22655, 22656, and 22702 of, and to repeal Sections 165.3, 165.4, 22657.5, and 22659 of, the Vehicle Code, and to amend Section 5008 of the Welfare and Institutions Code, relating to peace officers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980. Filed with Secretary of State September 30, 1980.]

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

SECTION 1. Section 7522 of the Business and Professions Code is amended to read:

7522. This chapter does not apply to:

(a) A person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship, provided that such person at no time carries or uses any deadly weapon in the performance of

his or her duties. For purposes of this subdivision, "deadly weapon" is defined to include any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade and any metal pipe or bar used or intended to be used as a club.

(b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while such officer or employee is engaged in the performance of his official duties, including uniformed peace officers employed part time by a public agency pursuant to a written agreement between a chief of police or sheriff and the public agency, provided such part-time employment does not exceed 50 hours in any calendar month.

(c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit.

(e) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (1) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (2) must be not less than 18 years of age nor more than 40 years of age, (3) must possess physical qualifications prescribed by the commission, and (4) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(f) An attorney at law in performing his duties as such attorney at law.

(g) A licensed collection agency or an employee thereof while acting within the scope of his employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(h) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(i) The legal owner of personal property which has been sold under a conditional sales agreement or a mortgagee under the terms of a chattel mortgage.

(j) Any bank subject to the jurisdiction of the Superintendent of Banks of the State of California or the Comptroller of Currency of the United States.

(k) A person engaged solely in the business of securing information about persons or property from public records.

(l) A peace officer of this state or a political subdivision thereof

while such peace officer is employed by a private employer to engage in off-duty employment in accordance with the provisions of Section 1126 of the Government Code. However, nothing herein shall exempt such peace officer who contracts for his or her services or the services of others as a private investigator or private patrol operator.

(m) A retired peace officer of the state or political subdivision thereof when such retired peace officer is employed by a private employer in employment approved by the chief law enforcement officer of the jurisdiction where the employment takes place, provided that the retired officer is in a uniform of a public law enforcement agency, has registered with the bureau on a form approved by the director, and has met any training requirements or their equivalent as established for security personnel under Section 7514.1 or 7514.2. Such officer may not carry a loaded or concealed firearm unless he or she is exempted under the provisions of subdivision (a) of Section 12027 of the Penal Code or paragraph (1) of subdivision (b) of Section 12031 of the Penal Code or has met the requirements set forth in Section 12033 of the Penal Code. However, nothing herein shall exempt such retired peace officer who contracts for his or her services or the services of others as a private investigator or private patrol operator.

SEC. 2. Section 8325 of the Health and Safety Code is amended to read:

8325. Persons designated by a cemetery authority have the powers of arrest as provided in Section 830.7 of the Penal Code for the purpose of maintaining order, enforcing the rules and regulations of the cemetery association, the laws of the state, and the ordinances of the city or county, within the cemetery over which he has charge, and within such radius as may be necessary to protect the cemetery property.

SEC. 2.1. Section 241 of the Penal Code is amended to read:

241. An assault is punishable by fine not exceeding five hundred dollars ($500), or by imprisonment in the county jail not exceeding six months, or by both. When it is committed against the person of a peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code, or a fireman, and the person committing the offense knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, and such peace officer or fireman is engaged in the performance of his duties, the offense shall be punished by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 2.2. Section 243 of the Penal Code is amended to read:

243. A battery is punishable by fine of not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment. When it is committed against the person of a peace officer, as that term is

defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code, or a fireman, and the person committing the offense knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, and such peace officer or fireman is engaged in the performance of his duties, the offense shall be punished by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

When it is committed against a peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or a fireman, and the person committing the offense knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, and such peace officer or fireman is engaged in the performance of his duties, and an injury is inflicted on such peace officer or fireman, the offense shall be punished by imprisonment in the county jail for a period of not more than one year, or by a fine or not more than one thousand dollars ($1,000), or by imprisonment in the state prison for 16 months, or two or three years. When it is committed against a person and serious bodily injury is inflicted on such person, the offense shall be punished by imprisonment in the county jail for a period of not more than one year or imprisonment in the state prison for two, three, or four years.

As used in this section, "serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

As used in this section "injury" means any physical injury which requires professional medical treatment.

SEC. 3. Section 243.2 of the Penal Code is repealed.

SEC. 3.1. Section 243.4 of the Penal Code is repealed.

SEC. 3.2. Section 245 of the Penal Code is amended to read:

245. (a) Every person who commits an assault upon the person of another with a deadly weapon or instrument or by any means of force likely to produce great bodily injury is punishable by imprisonment in the state prison for two, three or four years, or in a county jail not exceeding one year, or by fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment. When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument, and such weapon or instrument is owned by such person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by Section 12028.

(b) Every person who commits an assault with a deadly weapon or instrument or by any means likely to produce great bodily injury upon the person of a peace officer or fireman, and who knows or reasonably should know that such victim is a peace officer or fireman

engaged in the performance of his duties, when such peace officer or fireman is engaged in the performance of his duties shall be punished by imprisonment in the state prison for three, four, or five years.

As used in this section, "peace officer" refers to any person designated as a peace officer in Chapter 4.5 (commmencing with Section 830) of Title 3 of Part 2 of this code.

SEC. 4. Section 245.2 of the Penal Code is repealed.

SEC. 4.5. Section 245.4 of the Penal Code is repealed.

SEC. 5. Section 830.1 of the Penal Code is amended to read:

830.1. (a) Any sheriff, undersheriff, or deputy sheriff, regularly employed and paid as such, of a county, any policeman of a city, any policeman of a district authorized by statute to maintain a police department, any marshal or deputy marshal of a municipal court, any constable or deputy constable, regularly employed and paid as such, of a judicial district, or any inspector or investigator regularly employed and paid as such in the office of a district attorney, is a peace officer. The authority of any such peace officer extends to any place in the state:

(1) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision which employs him; or

(2) Where he has the prior consent of the chief of police, or person authorized by him to give such consent, if the place is within a city or of the sheriff, or person authorized by him to give such consent, if the place is within a county; or

(3) As to any public offense committed or which there is probable cause to believe has been committed in his presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense.

(b) The Deputy Director, assistant directors, chiefs, assistant chiefs, special agents, and narcotics agents of the Department of Justice, and such investigators who are designated by the Attorney General are peace officers. The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed within the state.

SEC. 6. 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 California Highway Patrol provided, that the primary duty of any such peace officer shall be the enforcement of the provisions of the Vehicle Code or of any other law relating to the use or operation of vehicles upon the highways, as that duty is set forth in the Vehicle Code.

(b) Any member of the California State Police Division provided, that the primary duty of any such peace officer shall be the protection of state properties and occupants thereof.

(c) Members of the California National Guard have the powers of

peace officers when they are (1) called or ordered into active state service by the Governor pursuant to the provisions of Section 143 or 146 of the Military and Veterans Code, (2) serving within the area wherein military assistance is required, and (3) directly assisting civil authorities in any of the situations specified in Section 143 or 146. The authority of any such peace officer extends to the area wherein military assistance is required as to a public offense committed or which there is reasonable cause to believe has been committed within that area. The requirements of Section 1031 of the Government Code are not applicable under such circumstances.

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

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

(f) Any member of the Law Enforcement Liaison Unit of the Department of Corrections, provided that the primary duty of any such peace officer shall be the investigation or apprehension of parolees, parole violators, or escapees from state institutions, the transportation of such persons, and the coordination of such activities with other criminal justice agencies.

(g) Members of the Wildlife Protection Branch of the Department of Fish and Game, provided that the primary duty of such deputies shall be the enforcement of the law as set forth in Section 856 of the Fish and Game Code.

(h) 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 any such peace officer shall be the enforcement of the law as set forth in Section 5008 of the Public Resources Code.

SEC. 7. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense, or pursuant to Section 8597 or Section 8598 of the Government Code. Such peace officers may carry firearms only if authorized and under such terms and conditions as are specified by their employing agencies:

(a) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of the provisions 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 such peace officer 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.

(b) Persons employed by the Division of Investigation of the Department of Consumer Affairs, and investigators of the Board of Medical Quality Assurance and the Board of Dental Examiners, and designated by the Director of Consumer Affairs, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(c) Employees or classes of employees of the Department of Forestry and voluntary fire wardens as are designated by the Director of Forestry pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of such code.

(d) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of such code.

(e) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of any such peace officer shall be the enforcement of the provisions of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

(f) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 13104 of such code.

(g) Inspectors of the Food and Drug Section as are designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of such code.

(h) All investigators of the Division of Labor Standards Enforcement, as designated by the Labor Commissioner, provided that the primary duty of any such peace officer shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(i) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, and Alcohol and Drug Programs and the Office of Statewide Health Planning and Development, provided that the primary duty of any such peace officer shall be the enforcement of the law relating to the duties of his department, or office.

(j) Marshals and police appointed by the Director of Parks and Recreation pursuant to Section 3324 of the Food and Agricultural Code, provided that the primary duty of any such peace officer shall

identification number or name of such officer.

SEC. 21. Section 830.11 of the Penal Code is repealed.

SEC. 22. Section 831 of the Penal Code is amended to read:

831. (a) A custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of a city or county who has the authority and responsibility for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of persons usually pending arraignment or upon court order either for their own safekeeping or for the specific purpose of serving a sentence therein.

(b) A custodial officer shall have no right to carry or possess firearms in the performance of his prescribed duties.

(c) Every person, prior to actual assignment as a custodial officer, shall have satisfactorily completed the Commission on Peace Officer Standards and Training courses specified in Section 832 and the jail operations training course created under the minimum standards for local detention facilities established by the Board of Corrections pursuant to Section 6030.

(d) At any time 20 or more custodial officers are on duty, there shall be at least one peace officer, as described in Section 830.1, on duty at the same time to supervise the performance of the custodial officers.

(e) This section shall not be construed to confer any authority upon any custodial officer except while on duty.

(f) A custodial officer may use reasonable force in establishing and maintaining custody of persons delivered to him by a law enforcement officer; may make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant; may release without further criminal process persons arrested for intoxication; and may release misdemeanants on citation to appear in lieu of or after booking.

SEC. 23. Section 832.4 of the Penal Code is amended to read:

832.4. Any undersheriff or deputy sheriff of a county, any policeman of a city, and any policeman of a district authorized by statute to maintain a police department, who is first employed after January 1, 1974, and is responsible for the prevention and detection of crime and the general enforcement of the criminal laws of this state, shall obtain the basic certificate issued by the Commission on Peace Officer Standards and Training within 18 months of his employment in order to continue to exercise the powers of a peace officer after the expiration of such 18-month period.

SEC. 24. Section 12027 of the Penal Code is amended to read:

12027. Section 12025 does not apply to or affect any of the following:

(a) Peace officers listed in Section 830.1 or 830.2 whether active or honorably retired, other duly appointed peace officers, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or

preserving the peace while he is actually engaged in assisting such officer.

The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at anytime subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a weapon as provided in this subdivision.

A retired peace officer shall petition the issuing agency for renewal of his or her privilege to carry a concealed firearm every five years. Any peace officer who has been honorably retired shall be issued an identification certificate containing an endorsement by the issuing agency indicating whether or not the retired peace officer has the privilege to carry a weapon pursuant to this subdivision and the date when the endorsement is to be reviewed again.

(b) The possession or transportation by any merchant of unloaded firearms as merchandise.

(c) Members of the Army, Navy, or Marine Corps of the United States, or the National Guard, when on duty, or organizations which are by law authorized to purchase or receive such weapons from the United States or this state.

(d) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their respective organizations.

(e) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(f) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using any of the firearms referred to in this chapter upon such target ranges, or while going to and from such ranges.

(g) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such hunting or fishing expedition.

(h) Members of any club or organization organized for the purpose of collecting and displaying antique or historical pistols, revolvers or other firearms, while such members are displaying such weapons at meetings of such clubs or organizations or while going to and from such meetings, or individuals who collect such firearms not designed to fire, or incapable of firing fixed cartridges or fixed shot shells, or other firearms of obsolete ignition type for which ammunition is not readily available and which are generally recognized as collector's items, provided such firearm is kept in the trunk. If the vehicle is not equipped with a trunk, such firearm shall be kept in a locked container in an area of the vehicle other than the utility or glove compartment.

SEC. 25. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his person or in a

vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

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

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer.

The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a weapon as provided in this paragraph. A retired peace officer shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm in public every five years. Any peace officer who has been honorably retired shall be issued an identification certificate containing an endorsement by the issuing agency indicating whether or not the retired peace officer has the privilege to carry a weapon pursuant to this paragraph and the date when the endorsement is to be reviewed again.

(2) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(3) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of such clubs.

(4) The carrying of concealable weapons by persons who are authorized to carry such weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4 of the Penal Code.

(5) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after such date, if they have received a Firearms Qualification Card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (i) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (ii) must be not less than 18 years of age nor more than 40 years of age, (iii) must possess physical qualifications prescribed by the commission, and (iv) are designated by the police commission as the

owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry such weapons, or by persons who are authorized to carry such weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to such section.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. Such certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his power as a peace officer, and who is employed while not on duty as such peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (i) if hired prior to January 1, 1977; or (ii) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators, private patrol operators, and alarm company operators who are licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(5) Uniformed security guards, regularly employed and compensated as such by persons engaged in any lawful business, while actually engaged in protecting and preserving the property of their employers and uniformed alarm agents employed by an alarm company operator while on duty. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their name.

(6) Uniformed employees of private patrol operators and uniformed employees of private investigators licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment as private patrolmen or private

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investigators.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to the provisions of this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by such person for lawful purposes connected with such business, from having a loaded firearm within such person's place of business, or any person in lawful possession of private property from having a loaded firearm on such property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, during such time and in such area as the hunting is not prohibited by the city council.

(j) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or another is in immediate danger and that the carrying of such weapon is necessary for the preservation of such person or property.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(*l*) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his place of residence, including any temporary residence or campsite.

SEC. 26. Section 13012 of the Penal Code is amended to read:

13012. The annual report of the department provided for in Section 13010 shall contain statistics showing:

(a) The amount and the types of offenses known to the public authorities;

(b) The personal and social characteristics of criminals and delinquents; and

(c) The administrative actions taken by law enforcement, judicial, penal and correctional agencies or institutions in dealing with criminals or delinquents.

(d) The number of citizens complaints received by law enforcement agencies under Section 832.5. Such statistics shall indicate the total number of such complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

It shall be the duty of the department to give adequate interpretation of such statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall include also statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

SEC. 26.5. Section 165 of the Vehicle Code is amended to read:

165. An authorized emergency vehicle is:

(a) Any publicly owned ambulance, lifeguard or lifesaving equipment or any privately owned ambulance used to respond to emergency calls and operated under a license issued by the Commissioner of the California Highway Patrol.

(b) Any publicly owned vehicle operated by the following persons, agencies, or organizations:

(1) Any federal, state, or local agency or department employing peace officers as that term is defined in Chapter 4.5 (commencing with Section 830) of Part 2 of Title 3 of the Penal Code, for use by such officers in the performance of their duties.

(2) Any forestry or fire department of any public agency or fire department organized as provided in the Health and Safety Code.

(c) Any vehicle owned by the state, or any bridge and highway district, and equipped and used either for fighting fires, or towing or servicing other vehicles, caring for injured persons, or repairing damaged lighting or electrical equipment.

(d) Any state-owned vehicle used in responding to emergency fire, rescue or communications calls and operated either by the Office of Emergency Services or by any public agency or industrial fire department to which the Office of Emergency Services has assigned such vehicle.

(e) Any vehicle owned or operated by any department or agency of the United States government when such vehicle is used in responding to emergency fire, ambulance, or lifesaving calls.

(f) Any vehicle for which an authorized emergency vehicle permit has been issued by the Commissioner of the California Highway Patrol.

SEC. 27. Section 165.3 of the Vehicle Code is repealed.

SEC. 28. Section 165.4 of the Vehicle Code is repealed.

SEC. 29. Section 1808.4 of the Vehicle Code is amended to read:

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(f) When any vehicle, except any highway maintenance or construction equipment, is left unattended for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade.

(g) When the person or persons in charge of a vehicle upon a highway are by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is by this code or other law required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(i) When any vehicle registered in a foreign jurisdiction is found upon a highway and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded, the vehicle may be impounded until such person furnishes to the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle. A notice of parking violation issued to such a vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that such bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that such bail has been deposited or accepting the notice to appear, such person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located.

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway or a portion thereof is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway or any portion thereof is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with such use or movement, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever any vehicle is parked or left standing where local authorities by resolution or ordinance have prohibited such parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

SEC. 32. Section 22653 of the Vehicle Code is amended to read:

22653. (a) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, other than an employee directing traffic or enforcing parking laws and regulations, may remove a vehicle from private property located within the territorial limits in which the officer is empowered to act, when a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(b) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may, after a reasonable period of time, remove a vehicle from private property located within the territorial limits in which the officer is empowered to act, if the vehicle has been involved in, and left at the scene of, a traffic accident and no owner is available to grant permission to remove the vehicle. This subdivision does not authorize the removal of a vehicle where the owner has been contacted and has refused to grant permission to remove the vehicle.

SEC. 33. Section 22654 of the Vehicle Code is amended to read:

22654. (a) Whenever any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or other employee directing traffic or enforcing parking laws and regulations, finds a vehicle standing upon a highway, located within the territorial limits in which the officer or employee is empowered to act, in violation of Sections 22500 and 22504, the officer or employee may move the vehicle or require the driver or other person in charge of the vehicle to move it to the nearest available position off the roadway or to the nearest parking location, or may remove and store the vehicle if moving it off the roadway to a parking location is impracticable.

(b) Whenever such an officer or employee finds a vehicle standing upon a street, located within the territorial limits in which the officer or employee is empowered to act, in violation of a traffic ordinance enacted by local authorities to prevent flooding of adjacent property, he or she may move the vehicle or require the driver or person in charge of the vehicle to move it to the nearest available location in the vicinity where parking is permitted.

(c) Any state, county, or city authority charged with the maintenance of any highway may move any vehicle which is disabled or abandoned or which constitutes an obstruction to traffic from the place where it is located on a highway to the nearest available position on the same highway as may be necessary to keep the highway open or safe for public travel. In addition, employees of the Department of Transportation may remove any disabled vehicle which constitutes an obstruction to traffic on a freeway from the place where it is located to the nearest available location where parking is permitted; and if the vehicle is unoccupied, the department shall comply with the notice requirements of subdivision (d) of this section.

(d) Any state, county, or city authority charged with the maintenance or operation of any highway, highway facility, or public works facility, in cases necessitating the prompt performance of any work on or service to such highway, highway facility, or public works facility, may move to the nearest available location where parking is permitted, any unattended vehicle which obstructs or interferes with the performance of such work or service or may remove and store such a vehicle if moving it off the roadway to a location where parking is permitted would be impracticable. If the vehicle is moved to another location where it is not readily visible from its former parked location or it is stored, the person causing such movement or storage of the vehicle shall immediately, by the most expeditious means, notify the owner of the vehicle of its location. If for any reason the vehicle owner cannot be so notified, the person causing the vehicle to be moved or stored shall immediately, by the most expeditious means, notify the police department of the city in which the vehicle was parked, or, if the vehicle had been parked in an unincorporated area of a county, notify the sheriff's department and nearest office of the California Highway Patrol in that county. No vehicle may be removed and stored pursuant to this subdivision unless signs indicating that no person shall stop, park, or leave standing any vehicle within the areas marked by the signs because such work or service would be done, were placed at least 24 hours prior to such movement or removal and storage.

SEC. 34. Section 22655 of the Vehicle Code is amended to read:

22655. (a) When any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, has reasonable cause to believe that a motor vehicle on a highway or on private property open to the general public onto which the public is explicitly or implicitly invited, located within the territorial limits in which the officer is empowered to act, has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway or from public or private property for the purpose of inspection.

(b) Unless sooner released, the vehicle shall be released upon the

expiration of 48 hours after such removal from the highway or private property upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included.

(c) Notwithstanding subdivision (b), when a motor vehicle to be inspected pursuant to subdivision (a) is a commercial vehicle, any cargo within the vehicle may be removed or transferred to another vehicle.

This section shall not be construed to authorize the removal of any vehicle from an enclosed structure on private property which is not open to the general public.

SEC. 35. Section 22656 of the Vehicle Code is amended to read:

22656. Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove a vehicle from a railroad right-of-way located within the territorial limits in which the officer is empowered to act if the vehicle is parked upon any railroad track or within 7½ feet of the nearest rail.

SEC. 36. Section 22657.5 of the Vehicle Code is repealed.

SEC. 37. Section 22659 of the Vehicle Code is repealed.

SEC. 38. Section 22702 of the Vehicle Code is amended to read:

22702. (a) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any other employee of the state, county, or city designated by an agency or department of the state or the board of supervisors or city council to perform this function, in the territorial limits in which the officer or employee is authorized to act, who has reasonable grounds to believe that the vehicle has been abandoned, may remove the vehicle from a highway or from public or private property.

(b) Any person performing a franchise or contract awarded pursuant to subdivision (a) of Section 22710, may remove a vehicle from a highway or place to which it has been removed pursuant to subdivision (c) of Section 22654 or from public or private property, after a determination by a peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or other designated employee of the state, county, or city in which such vehicle is located that such vehicle is abandoned.

(c) The public agency employing the officer shall make an appraisal of any such vehicle either prior to or within five days after removal.

(d) A state, county, or city employee, other than a peace officer or employee of a sheriff's department or city police department, designated to remove vehicles pursuant to this section may do so only after he has mailed or personally delivered a written report identifying the vehicle and its location to the office of the Department of the California Highway Patrol located nearest to the vehicle.

SEC. 38.2. Section 22702 of the Vehicle Code is amended and renumbered to read:

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22669. (a) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any other employee of the state, county, or city designated by an agency or department of the state or the board of supervisors or city council to perform this function, in the territorial limits in which the officer or employee is authorized to act who has reasonable grounds to believe that the vehicle has been abandoned, as determined pursuant to Section 22523, may remove the vehicle from a highway or from public or private property.

(b) Any person performing a franchise or contract awarded pursuant to subdivision (a) of Section 22710, may remove a vehicle from a highway or place to which it has been removed pursuant to subdivision (c) of Section 22654 or from public or private property, after a determination by a peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or other designated employee of the state, county, or city in which such vehicle is located that such vehicle is abandoned, as determined pursuant to Section 22523.

(c) A state, county, or city employee, other than a peace officer or employee of a sheriff's department or a city police department, designated to remove vehicles pursuant to this section may do so only after he or she has mailed or personally delivered a written report identifying the vehicle and its location to the office of the Department of the California Highway Patrol located nearest to the vehicle.

SEC. 38.5. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing evaluation services or may be part-time employees or may be employed on a contractual basis;

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2 of this part;

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of this code, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in

this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation;

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services which prevent initial recourse to hospital treatment or aftercare services which support adjustment to community living following hospital treatment. Such services may be provided through county [illegible]fare departments, State Department of Mental Health, Short-Doyle programs or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. Such files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals;

(e) "Crisis intervention" consists of an interview or series of [illegible]rviews within a brief period of time, conducted by qualified [illegible]essionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services;

(f) "Prepetition screening" is a screening of all petitions for [illegible]t-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of mental disorder, to be a danger to others, or to himself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part;

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350) of this part;

(h) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4

CHAPTER 1609

An act to add Section 13519 to, and to add and repeal Title 5 (commencing with Section 13700) to Part 4 of, the Penal Code, relating to training of peace officers, and making an appropriation therefor.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares that:

(a) A significant number of homicides, aggravated assaults, and assaults and batteries occur within the home between adult members of families. Research shows that 35 to 40 percent of all assaults are related to domestic violence.

(b) The reported incidence of domestic violence represents only a portion of the total number of incidents of domestic violence.

(c) Twenty-three percent of the deaths of law enforcement officers in the line of duty results from intervention by law enforcement officers in incidents of domestic violence.

(d) Domestic violence is a complex problem affecting families from all social and economic backgrounds.

The purpose of this act is to address domestic violence as a serious crime against society and to assure the victims of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide. It is the intent of the Legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior in the home is criminal behavior and will not be tolerated. It is not the intent of the Legislature to remove a peace officer's individual discretion where that discretion is necessary, nor is it the intent of the Legislature to hold individual peace officers liable.

SEC. 2. Section 13519 is added to the Penal Code, to read:

13519. (a) The commission shall implement by January 1, 1986, a course or courses of instruction for the training of law enforcement officers in California in the handling of domestic violence complaints and also shall develop guidelines for law enforcement response to domestic violence. The course or courses of instruction and the guidelines shall stress enforcement of criminal laws in domestic violence situations, availability of civil remedies and community resources, and protection of the victim. Where appropriate, the training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including utilizing the staff of shelters for battered women in the presentation of training.

As used in this section, "law enforcement officer" means any

shall not be limited to, the following: one representative each from the California Peace Officers' Association, the Peace Officers' Research Association of California, the State Bar of California, the California Women Lawyers' Association, and the State Commission on the Status of Women; two representatives from the commission; two representatives from the California Alliance Against Domestic Violence; two peace officers, recommended by the commission, who are experienced in the provision of domestic violence training; and two domestic violence experts, recommended by the California Alliance Against Domestic Violence, who are experienced in the provision of direct services to victims of domestic violence. At least one of the persons selected shall be a former victim of domestic violence.

The commission, in consultation with these groups and individuals, shall review existing training programs to determine in what ways domestic violence training might be included as a part of ongoing programs.

(e) Forty thousand dollars ($40,000) is appropriated from the Peace Officers Training Fund in augmentation of Item 8120-001-268 of the Budget Act of 1984, to support the travel, per diem, and associated costs for convening the necessary experts.

SEC. 3. Title 5 (commencing with Section 13700) is added to Part 4 of the Penal Code, to read:

TITLE 5. LAW ENFORCEMENT RESPONSE TO DOMESTIC VIOLENCE

CHAPTER 1. GENERAL PROVISIONS

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, or another.

(b) "Domestic Violence" is abuse committed against an adult or fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or has or has had a dating or engagement relationship.

(c) "Officer" means any law enforcement officer employed by a local police department or sheriff's office, consistent with Section 830.1.

(d) "Victim" means a person who is a victim of domestic violence.

13701. Every law enforcement agency in the this state shall develop, adopt, and implement written policies and standards for officers' response to domestic violence calls by January 1, 1986. These policies shall reflect that domestic violence is alleged criminal conduct. Further, they shall reflect existing policy that a request for assistance in a situation involving domestic violence is the same as any other request for assistance where violence has occurred. These

compiled by each law enforcement agency and submitted to the Attorney General.

(b) The Attorney General shall report annually to the Governor, the Legislature, and the public, the total number of domestic violence-related calls received by California law enforcement agencies, the number of cases involving weapons, and a breakdown of calls received by agency, city, and county.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be thus identified on the face of the report as a domestic violence incident.

CHAPTER 5. TERMINATION

13731. This title shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

SEC. 4. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the Department of Justice for the purposes of Section 13730 of the Penal Code.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1610

An act to add Section 14132.6 to the Welfare and Institutions Code, relating to mastectomy.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. The Legislature finds and declares that breast reconstruction incident to mastectomy is not cosmetic surgery. It is surgical restoration of a part of the body that has been lost through severe illness by no fault of the patient, and restoration shall, therefore, be considered part of the original mastectomy surgery.

SEC. 2. Section 14132.6 is added to the Welfare and Institutions Code, to read:

14132.6. External prostheses constructed of silicon or other

The cancer so developing or manifesting itself in these cases shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1172

An act to add Section 13023 to the Penal Code, relating to criminal records.

[Approved by Governor September 30, 1989. Filed with Secretary of State September 30, 1989.]

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

SECTION 1. Section 13023 is added to the Penal Code, to read:

13023. Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, such information as may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act

contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1173

An act to add Section 56111.1 to the Government Code, and to amend Section 99231 of the Public Utilities Code, relating to local government.

[Approved by Governor September 30, 1989. Filed with Secretary of State September 30, 1989.]

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

SECTION 1. Section 56111.1 is added to the Government Code, to read:

56111.1. (a) Notwithstanding Section 56110, upon approval of the commission, the City of Soledad may annex noncontiguous territory of not more than 1,000 acres in area, located in the County of Monterey and which constitutes a state correctional training facility. If, after the completion of the annexation, the State of California sells that territory or any part thereof, all of that territory which is no longer owned by the state shall cease to be a part of the City of Soledad.

(b) If territory is annexed pursuant to this section, the city may not annex any territory not owned by the State of California and not contiguous to the city although that territory is contiguous to the territory annexed pursuant to this section.

(c) When territory ceases to be part of the city pursuant to this section, the legislative body of the city shall adopt a resolution confirming the detachment of that territory from the city. The resolution shall describe the detached territory and shall be accompanied by a map indicating the territory. Immediately upon adoption of the resolution, the city clerk shall make any filing provided for by Chapter 8 (commencing with Section 57200) of Part 4 of Division 3.

(d) If territory annexed to the City of Soledad pursuant to this section becomes contiguous to the city, the limitations imposed by this section shall cease to apply.

(e) The City of Soledad may enter into an agreement with any

sion in its proceedings should take into account potential stranded costs for core and noncore customers.

(3) Consider a regulatory scheme that allows both unbundled public utility gas storage service and independent gas storage companies the ability to charge market-based rates.

(4) Give expedited consideration to applications for a certificate of public convenience and necessity filed by independent gas storage companies so as to enable these companies to commence operations at a time reasonably proximate to the initiation of unbundled public utility gas storage service. Further, the commission should take appropriate consideration of the costs and benefits of a competitive gas storage market in making determinations of the public convenience and necessity in these cases.

(5) Ensure that costs borne by core customers as a result of these storage proceedings are commensurate with the benefits that core customers receive.

(e) The Public Utilities Commission is requested to report to both houses of the Legislature no later than July 1, 1993, explaining what steps the commission has taken to foster the development of a competitive natural gas storage market, including, but not limited to, a description of all commission orders, decision, rules, or regulations affecting the unbundling of public utility gas storage services, the rates charged for these services, and the amount of such services utilized by customers. In addition, the commission is requested in the report to describe the actions it has taken in connection with the development of independent gas storage companies, including, but not limited to, the issuance of certificates of public convenience and necessity, the approval of transportation tariffs, and orders providing for the interconnection of these independent gas storage facilities with the facilities of existing public utilities.

SEC. 2. Notwithstanding any other provision of law, the Director of Finance may authorize transfers from reserve funds in the Transportation Rate Fund (Section 5005, Public Utilities Code), Public Utilities Commission Utilities Reimbursement Account (Section 402, Public Utilities Code), or the Public Utilities Commission Transportation Reimbursement Account (Section 403, Public Utilities Code) for support of the Public Utilities Commission. The total of all transfers pursuant to this section shall not exceed five million dollars ($5,000,000).

CRIMES—SEXUAL HABITUAL OFFENDERS— DEPARTMENT OF JUSTICE

CHAPTER 1338

S.B. No. 1184

AN ACT to amend Sections 290.3 and 11170 of, to add Section 13014 to, and to add Chapter 9.5 (commencing with Section 13885) to Title 6 of Part 4 of, the Penal Code, relating to sexual habitual offenders.

[Approved by Governor September 30, 1992.]

[Filed with Secretary of State September 30, 1992.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1184, Presley. Sexual habitual offenders.

(1) Existing law defines murder as the unlawful killing of a human being or a fetus with malice aforethought. Existing law also provides for 1st degree and 2nd degree murder.

This bill would direct the Department of Justice to do all of the following within its existing budget:

(a) Collect specified information on all persons who are the victims of, and all persons who are charged with, the crime of murder.

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(b) Adopt and distribute to all state and governmental entities that are responsible for the investigation and prosecution of murder cases forms which will include information provided to the department pursuant to (2) below.

(c) Compile, collate, index, and maintain a file of the information required by (2) below, which would be made available to the general public during the normal business hours of the department.

(2) In addition, the bill would require every state or local governmental entity responsible for the investigation and prosecution of a homicide case to provide the department, on forms specified above, with specified demographic information about the victim and the person or persons charged with the crime. Because these provisions would increase the responsibilities of local governmental entities, the bill would impose a state-mandated local program.

(3) Existing law requires persons convicted of specified sex offenses who are required to register, in addition to any imprisonment or fine, or both, to pay an additional fine, as specified, unless the court determines that the defendant does not have the ability to pay the fine. Existing law also requires that an amount equal to the moneys deposited with the county treasurer under this provision be transferred to the Controller for deposit in the General Fund, to be used, upon appropriation by the Legislature, for the purposes of provisions relating to the Serious Habitual Offender Program pilot project authorized in specified counties mentioned in (6) below.

This bill would require, instead, that the moneys be used for the purposes of a statewide Sexual Habitual Offender Program proposed by this bill.

(4) Existing law, the Child Abuse and Neglect Reporting Act, requires the Department of Justice to maintain an index of all reports of child abuse submitted, as specified, to be updated continually. Existing law also requires the department to make information from the index concerning, among others, applicants for licensure or any adult who resides or is employed in a home of an applicant for licensure or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or children available to the State Department of Social Services or to any county licensing agency which has contracted with the state, as specified.

This bill would provide, commencing January 1, 1993, that whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to this provision, the Department of Justice may charge the person or entity making the request a fee not to exceed the reasonable costs to the department of providing the information, not to be increased, except as specified, and in no case to exceed $15.

(5) Existing law requires specified sex offenders who are required to register, prior to discharge or parole from the state prison, a county jail, or specified institutions, or prior to the granting of probation or release, to submit specimens of blood and saliva samples. Existing law also requires the Department of Justice to perform DNA and other genetic typing analysis of these blood specimens and saliva samples for law enforcement purposes.

This bill would provide that the above-mentioned fee that this bill would authorize the Department of Justice to charge a person making a request for information would fund the DNA offender identification file authorized by this provision.

(6) Existing law authorizes the Serious Habitual Offender Program pilot project for 5 years in the Counties of San Francisco, San Mateo, Santa Clara, Santa Cruz, Alameda, Contra Costa, Napa, Sonoma, Solano, and Marin for the purpose of evaluating the number of arrests and convictions for sex offenses and the length of sentences for repeat offenders. The project becomes inoperative on July 1, 1994, and related provisions are to be repealed on January 1, 1995.

This bill would authorize a similar statewide Sexual Habitual Offender Program. To the extent that local counties will be required to furnish copies of existing information maintained in their files regarding persons identified by the Department of Justice as serious habitual sex offenders and provide followup information, this bill would impose a state-mandated local program.

(7) This bill would incorporate additional changes in Section 11170 of the Penal Code, proposed by AB 92, to be operative only if AB 92 and this bill are both chaptered and become effective January 1, 1993, and this bill is chaptered last.

(8) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed $1,000,000, shall be made from the State Mandates Claims Fund.

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

SECTION 1. Section 290.3 of the Penal Code is amended to read:

290.3. Every person convicted of a violation of any offense listed in subdivision (a) of Section 290 * * *, in addition to any imprisonment or fine, or both, imposed for violation of the underlying offense, shall be punished by a fine of one hundred dollars ($100) upon the first conviction or a fine of two hundred dollars ($200) upon the second and each subsequent conviction, unless the court determines that the defendant does not have the ability to pay the fine.

Out of the moneys deposited with the county treasurer pursuant to this section, there shall be transferred, once a month, to the Controller for deposit in the General Fund, an amount equal to all fines collected during the preceding month upon conviction of, or upon the forfeiture of bail by, any person arrested for, or convicted of, committing an offense listed in Section 290. Moneys deposited in the General Fund pursuant to this section shall be deposited in 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.

SEC. 2. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) which is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency * * *, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency which has contracted with the state for the performance of licensing duties any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or

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children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 222.70, 224.80, 226.52, or 227.10 of the Civil Code. If the department has information that has been received subsequent to January 1, 1981, concerning such a person, it also shall make available to the State Department of Social Services or to the county licensing agency any other information maintained pursuant to subdivision (a).

(4) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, or licensing.

(5) Effective January 1, 1993, whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars ($15).

All moneys received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and Section 290.2.

SEC. 2.5. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded or that have been destroyed under Section 11169. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318, of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency * * *, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisorial or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section

8714, 8802, 8912, or 9000 of the Family Code. If the department has information that has been received subsequent to January 1, 1981, concerning such a person, it also shall make available to the State Department of Social Services or to the county licensing agency any other information maintained pursuant to subdivision (a).

(4) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, or licensing.

(5) Effective January 1, 1993, whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars ($15).

All the moneys received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Part 6 of Part 4 and Section 290.2.

(c) Whenever a report of suspected child abuse names a school employee and forms the basis for disciplinary action of the employee by the school employer, the school or school district, subject to Section 44031 of the Education Code or any applicable agreement adopted pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, may maintain customary records regarding the alleged incident. However, under no circumstances shall the report of suspected child abuse itself be retained in a school employee's personnel file.

SEC. 3. Section 13014 is added to the Penal Code, to read:

13014. (a) The Department of Justice shall perform the following duties concerning the investigation and prosecution of homicide cases:

(1) Collect information, as specified in subdivision (b), on all persons who are the victims of, and all persons who are charged with, homicide.

(2) Adopt and distribute to all state and governmental entities that are responsible for the investigation and prosecution of homicide cases forms which will include information to be provided to the department pursuant to subdivision (b).

(3) Compile, collate, index, and maintain a file of the information required by subdivision (b). The file shall be available to the general public during the normal business hours of the department, and the department shall annually publish a report containing the information required by this section, which shall also be available to the general public.

The department shall perform the duties specified in this subdivision within its existing budget.

(b) Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime, including age, gender, race, and ethnic background.

SEC. 4. Chapter 9.5 (commencing with Section 13885) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 9.5. STATEWIDE SEXUAL HABITUAL OFFENDER PROGRAM

13885. The Legislature hereby finds that a substantial and disproportionate amount of sexual offenses are committed against the people of California by a relatively small number of multiple and repeat sex offenders. In enacting this chapter, the Legislature intends to support efforts of the criminal justice community through a focused effort by law enforcement and prosecuting agencies to identify, locate, apprehend, and prosecute sexual habitual offenders.

13885.2. The Attorney General, subject to the availability of funds, shall establish in the Department of Justice the Sexual Habitual Offender Program, which is hereby created, which shall evaluate the number of arrests and convictions for sex offenses and the length of sentences for repeat offenders. This shall be a statewide program.

It is the intent of the Legislature that this statewide program shall not affect the operation of the Serious Habitual Offender Program authorized by Chapter 10 (commencing with Section 13890) involving the Counties of San Francisco, San Mateo, Santa Clara, Santa Cruz, Alameda, Contra Costa, Napa, Sonoma, Solano, and Marin which shall become inoperative on July 1, 1994.

13885.4. As used in this chapter, "sexual habitual offenders" means those persons who have been either of the following:

(a) Convicted of two or more violent offenses against a person involving force or violence which include at least one sex offense.

(b) Convicted of an offense listed in Section 290 and also meet one of the following criteria:

(1) Have three or more felony arrests for sex offenses specified in Section 290 on their criminal record.

(2) Have five or more felony arrests for any type of offense on their criminal record.

(3) Have 10 or more arrests, either felony or misdemeanor, for any type of offense on their criminal record.

(4) Have five or more arrests, either felony or misdemeanor, for any type of offense, including either of the following:

(A) At least one conviction for multiple sex offenses which shall mean a conviction arising from the commission of two or more offenses listed in subdivision (a) of Section 290 in one transaction.

(B) At least two arrests for a single sex offense listed in subdivision (a) of Section 290.

13885.6. The Department of Justice shall establish and maintain a comprehensive file of existing information maintained by law enforcement agencies, the Department of Corrections, the Department of Motor Vehicles, and the Department of Justice. The Department of Justice may request the Department of Corrections, the Department of Motor Vehicles, and law enforcement agencies to provide existing information from their files regarding persons identified as sexual habitual offenders. The Department of Corrections, the Department of Motor Vehicles, and law enforcement agencies, when requested by the Department of Justice, shall provide copies of existing information maintained in their files regarding persons identified by the Department of Justice as sexual habitual offenders and shall provide followup information to the Department of Justice as it becomes available. This sexual habitual offender file shall be maintained by the Department of Justice and shall contain a complete physical description and method of operation of the sexual habitual offender, information describing his or her interaction with criminal justice agencies, and his or her prior criminal record. The Department of Justice also shall prepare a summary profile of each sexual habitual offender for distribution to law enforcement agencies.

13885.8. The Department of Justice shall provide a summary profile of each sexual habitual offender to each law enforcement agency when the individual registers in, or moves to, the area in which the law enforcement agency is located.

BILL NUMBER: AB 2250 CHAPTERED 10/11/93
BILL TEXT

CHAPTER 1230
FILED WITH SECRETARY OF STATE OCTOBER 11, 1993
APPROVED BY GOVERNOR OCTOBER 11, 1993
PASSED THE SENATE SEPTEMBER 10, 1993
PASSED THE ASSEMBLY SEPTEMBER 10, 1993
AMENDED IN SENATE SEPTEMBER 8, 1993
AMENDED IN SENATE AUGUST 17, 1993
AMENDED IN SENATE JULY 16, 1993
AMENDED IN ASSEMBLY MAY 11, 1993

INTRODUCED BY Assembly Members Speier and Collins

MARCH 5, 1993

An act to amend Sections 13700 and 13730 of the Penal Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 2250, Speier. Domestic violence.

Existing law requires every law enforcement agency to develop, adopt, and implement written policies and standards for officers' response to domestic violence calls, as specified, maintain a complete and systematic record of all protection orders with respect to domestic violence incidents, as specified, and develop a system for recording all domestic violence-related calls for assistance made to the Department of Justice. Existing law also requires each law enforcement agency to develop an incident report form that includes a domestic violence identification code, as specified.

This bill would require that domestic violence-related calls for assistance, for the purposes of these provisions, be supported with the written incident report form developed under the above provisions, identifying the domestic violence incident.

Existing law defines "domestic violence" for this purpose as abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship.

This bill would redefine "domestic violence" for this

purposes, as abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, specified cohabitant, or former cohabitant in the case of adults, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship, thereby imposing a state-mandated local program by expanding the scope of the duties of local law enforcement with regard to recording and providing written incident reports on domestic violence-related calls.

This bill would incorporate additional changes in Section 13700 of the Penal Code proposed by AB 224, to be operative only if AB 224 and this bill are both chaptered and become effective January 1, 1994, and this bill is chaptered last.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed $1,000,000, shall be made from the State Mandates Claims Fund.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 13700 of the Penal Code is amended to read:

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

(b) "Domestic violence" means abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are

cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

(c) "Officer" means any officer or employee of a local police department or sheriff's office, any peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, any peace officer of the University of California Police Department, as defined in subdivision (c) of Section 830.2, or any peace officer of the California State University Police Department, as defined in subdivision (d) of Section 830.2.

(d) "Victim" means a person who is a victim of domestic violence.

SEC. 1.5. Section 13700 of the Penal Code is amended to read:

13700. As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

(b) "Domestic violence" means abuse committed against an adult or a fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or person with whom the suspect has had a child or is having or has had a dating or engagement relationship. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

(c) "Officer" means any officer or employee of a local police department or sheriff's office, and any peace officer of the California Highway Patrol, the California State Police, the Department of Parks and Recreation, the University of California Police Department, or the California State University and College Police Departments, as defined in Section 830.2, or a housing authority patrol officer, as defined in subdivision (d) of Section 830.31.

(d) "Victim" means a person who is a victim of domestic

Violence:

SEC. 2. Section 13730 of the Penal Code is amended to read:

13730. (a) Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.

(b) The Attorney General shall report annually to the Governor, the Legislature, and the public the total number of domestic violence-related calls received by California law enforcement agencies, the number of cases involving weapons, and a breakdown of calls received by agency, city, and county.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be thus identified on the face of the report as a domestic violence incident.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 13700 of the Penal Code proposed by both this bill and AB 224. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1994, (2) each bill amends Section 13700 of the Penal Code, and (3) this bill is enacted after AB 224, in which case Section 1 of this bill shall not become operative.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Senate Bill No. 132

CHAPTER 965

An act to amend Sections 13519 and 13730 of the Penal Code, relating to domestic violence.

[Approved by Governor October 16, 1995. Filed with Secretary of State October 16, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 132, Watson. Domestic violence.

(1) Under existing law, the Commission on Peace Officer Standards and Training is required to implement a course or courses of instruction for the training of law enforcement officers in the handling of domestic violence complaints. The course of instruction is required to be developed by the commission in consultation with specified groups and individuals.

This bill would require each law enforcement officer below the rank of supervisor who is assigned to patrol duties and would normally respond to domestic violence calls or incidents of domestic violence to complete, every 2 years, an updated course of instruction on domestic violence. This instruction would be funded from existing resources.

Existing law requires each law enforcement agency to develop an incident report form that includes a domestic violence identification code and requires a report to be written in all incidents of domestic violence.

This bill would specify certain information to be included in a domestic violence incident report.

(2) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would impose a state-mandated local program by imposing new duties on peace officers.

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

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DOJ Reports Amended

Ch. Sacramento County and City of Newport Beach

Section 7: Documentation

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

SECTION 1. Section 13519 of the Penal Code is amended to read:

13519. (a) The commission shall implement by January 1, 1986, a course or courses of instruction for the training of law enforcement officers in California in the handling of domestic violence complaints and also shall develop guidelines for law enforcement response to domestic violence. The course or courses of instruction and the guidelines shall stress enforcement of criminal laws in domestic violence situations, availability of civil remedies and community resources, and protection of the victim. Where appropriate, the training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including utilizing the staff of shelters for battered women in the presentation of training.

As used in this section, "law enforcement officer" means any officer or employee of a local police department or sheriff's office, any peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, any peace officer of the University of California Police Department, as defined in subdivision (c) of Section 830.2, any peace officer of the California State University Police Departments, as defined in subdivision (d) of Section 830.2, or a peace officer, as defined in subdivision (d) of Section 830.31.

(b) The course of basic training for law enforcement officers shall, no later than January 1, 1986, include adequate instruction in the procedures and techniques described below:

(1) The provisions set forth in Title 5 (commencing with Section 13700) relating to response, enforcement of court orders, and data collection.

(2) The legal duties imposed on police officers to make arrests and offer protection and assistance including guidelines for making felony and misdemeanor arrests.

(3) Techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and that promote the safety of the victim.

(4) The nature and extent of domestic violence.

(5) The legal rights of, and remedies available to, victims of domestic violence.

(6) The use of an arrest by a private person in a domestic violence situation.

(7) Documentation, reportwriting, and evidence collection.

(8) Domestic violence diversion as provided in Chapter 2.6 (commencing with Section 1000.6) of Title 6 of Part 2.

(9) Tenancy issues and domestic violence.

(10) The impact on children of law enforcement intervention in domestic violence.

(11) The services and facilities available to victims and batterers.

(12) The use and applications of this code in domestic violence situations.

(13) Verification and enforcement of temporary restraining orders when (A) the suspect is present and (B) the suspect has fled.

(14) Verification and enforcement of stay-away orders.

(15) Cite and release policies.

(16) Emergency assistance to victims and how to assist victims in pursuing criminal justice options.

The guidelines developed by the commission shall also incorporate the foregoing factors.

(c) (1) All law enforcement officers who have received their basic training before January 1, 1986, shall participate in supplementary training on domestic violence subjects, as prescribed and certified by the commission.

(2) Except as provided in paragraph (3), the training specified in paragraph (1) shall be completed no later than January 1, 1989.

(3) (A) The training for peace officers of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, shall be completed no later than January 1, 1992.

(B) The training for peace officers of the University of California Police Department and the California State University Police Departments, as defined in Section 830.2, shall be completed no later than January 1, 1993.

(C) The training for peace officers employed by a housing authority, as defined in subdivision (d) of Section 830.31, shall be completed no later than January 1, 1995.

(4) Local law enforcement agencies are encouraged to include, as a part of their advanced officer training program, periodic updates and training on domestic violence. The commission shall assist where possible.

(d) The course of instruction, the learning and performance objectives, the standards for the training, and the guidelines shall be developed by the commission in consultation with appropriate groups and individuals having an interest and expertise in the field of domestic violence. The groups and individuals shall include, but shall not be limited to, the following: one representative each from the California Peace Officers' Association, the Peace Officers' Research Association of California, the State Bar of California, the California Women Lawyers' Association, and the State Commission on the Status of Women; two representatives from the commission; two representatives from the California Alliance Against Domestic Violence; two peace officers, recommended by the commission, who are experienced in the provision of domestic violence training; and two domestic violence experts, recommended by the California Alliance Against Domestic Violence, who are experienced in the provision of direct services to victims of domestic violence. At least

one of the persons selected shall be a former victim of domestic violence.

The commission, in consultation with these groups and individuals, shall review existing training programs to determine in what ways domestic violence training might be included as a part of ongoing programs.

(e) Each law enforcement officer below the rank of supervisor who is assigned to patrol duties and would normally respond to domestic violence calls or incidents of domestic violence shall complete, every two years, an updated course of instruction on domestic violence that is developed according to the standards and guidelines developed pursuant to subdivision (d). The instruction required pursuant to this subdivision shall be funded from existing resources available for the training required pursuant to this section. It is the intent of the Legislature not to increase the annual training costs of local government entities.

SEC. 2. Section 13730 of the Penal Code is amended to read:

13730. (a) Each law enforcement agency shall develop a system, by January 1, 1986, for recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.

(b) The Attorney General shall report annually to the Governor, the Legislature, and the public the total number of domestic violence-related calls received by California law enforcement agencies, the number of cases involving weapons, and a breakdown of calls received by agency, city, and county.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident. A report shall include at least both of the following:

(1) A notation of whether the officer or officers who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance.

(2) A notation of whether the officer or officers who responded to the domestic violence call determined if any law enforcement agency had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local

agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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

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Assembly Bill No. 488

CHAPTER 803

An act to amend Sections 4497.34 and 13012 of, and to add Section 13010.5 to, the Penal Code, relating to crime, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 1995. Filed with Secretary of State October 13, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 488, Baca. Juvenile justice system.

(1) Existing law specifies procedures under which counties are eligible to receive funding to construct, reconstruct, remodel, or replace juvenile facilities from moneys in the County Correctional Facility Capital Expenditure and Youth Facility Bond Act of 1988. These procedures require the county to enter into a contract with the Department of the Youth Authority and begin construction or renovation work within 4 years of the operative date of the regulations that implement the provisions.

This bill would extend the period in which a county may begin construction or renovation work on juvenile facilities and still be eligible to receive funding under these provisions to within 6 years of the operative date of the regulations that implement the provisions. This bill also would require the Department of the Youth Authority to immediately reallocate unused awards to eligible participating counties, excluding moneys allocated to San Bernardino County.

(2) Existing law requires the Department of Justice to collect data necessary for the work of the department, to process, tabulate, analyze, and interpret the data, to present an annual report to the Governor containing the criminal statistics of the preceding calendar year, and to periodically review the requirements of units of government using criminal justice statistics. The department's annual report is required to contain statistics showing the administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions in dealing with criminals or delinquents.

This bill would expressly require this report to contain statistics showing administrative actions taken by those agencies or institutions in the juvenile justice system. The bill would require the department to collect data pertaining to the juvenile justice system for statistical purposes. The bill would require that this information serve to assist the department in complying with the reporting

requirement described above, measuring the extent of juvenile delinquency, determining the need for and effectiveness of relevant legislation, and identifying long-term trends in juvenile delinquency.

The bill would appropriate $149,000 from the General Fund to the Department of Justice for the purpose of implementing this program for the 1995–96 fiscal year, and would direct the department thereafter to implement this program using funds appropriated therefor in the Budget Act.

(3) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. Section 4497.34 of the Penal Code is amended to read:

4497.34. (a) Counties with overcrowded juvenile facilities shall not be eligible to receive funds to construct, reconstruct, remodel, or replace juvenile facilities unless they have adopted a plan to correct overcrowded conditions within their facilities which includes the use of alternatives to detention. The corrective action plan shall provide for the use of five or more methods or procedures to minimize the number of minors detained and shall be approved by the board of supervisors during or subsequent to a public hearing.

(b) To be eligible for funding under this chapter, the county shall enter into a contract with the Department of the Youth Authority and begin construction or renovation work within six years of the operative date of the regulations that implement this chapter. If a county fails to meet this requirement, any allocations or awards to that county under this chapter shall be deemed void and any moneys allocated or awarded to that county shall revert to the Department of the Youth Authority for reallocation to another county as provided by Section 4497.32. The department may waive this requirement if it determines that there are unavoidable delays in starting construction.

(c) To be eligible for funding for juvenile facilities under the County Correctional Facility Capital Expenditure Bond Act of 1986, the county shall enter into a contract with the Department of the Youth Authority and begin construction or renovation work by July 31, 1991. If a county fails to meet this requirement, all allocations or awards that have been made to that county under that act shall be deemed void and any moneys allocated or awarded to that county shall revert to the Department of the Youth Authority and are reappropriated for reallocation as provided by Section 4497.32. The department may waive this requirement if it determines that there are unavoidable delays in starting construction.

(d) Excluding moneys allocated for San Bernardino County, the Department of the Youth Authority shall immediately reallocate unused awards to eligible participating counties.

SEC. 2. Section 13010.5 is added to the Penal Code, to read:

13010.5. The department shall collect data pertaining to the juvenile justice system for statistical purposes. This information shall serve to assist the department in complying with the reporting requirement of subdivision (c) of Section 13012, measuring the extent of juvenile delinquency, determining the need for and effectiveness of relevant legislation, and identifying long-term trends in juvenile delinquency.

SEC. 3. Section 13012 of the Penal Code is amended to read:

13012. The annual report of the department provided for in Section 13010 shall contain statistics showing all of the following:

(a) The amount and the types of offenses known to the public authorities.

(b) The personal and social characteristics of criminals and delinquents.

(c) The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or *institutions*, including those in the juvenile justice system, in dealing with criminals or delinquents.

(d) The number of citizens' complaints received by law enforcement agencies under Section 832.5. Such statistics shall indicate the total number of these complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

It shall be the duty of the department to give adequate interpretation of the statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution, and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall include also statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enable counties with demonstrated need for relief of overcrowded juvenile facilities to utilize funds that they were entitled to for that purpose, but for inadvertent failure to meet a deadline for entering into a contract and beginning construction, and to enable the Department of Justice to implement the data collection program as expeditiously as possible, it is necessary that this act go into immediate effect.

SEC. 5. (a) The sum of one hundred forty-nine thousand dollars ($149,000) is hereby appropriated from the General Fund to the Department of Justice for the purpose of implementing Sections 2 and 3 of this act for the 1995–96 fiscal year.

(b) Thereafter, the Department of Justice shall implement Sections 2 and 3 of this act using funds appropriated in the Budget Act for these purposes.

Assembly Bill No. 3472

CHAPTER 872

An act to amend Sections 8762, 8771, and 22350 of the Business and Professions Code, to amend Sections 17, 139, 211, 216, 217, 234, 339, 481.140, 491.160, 511.060, 574, 680.260, 708.170, 715.040, 995.160, 1166a, and 2015.3 of the Code of Civil Procedure, to amend Sections 607f and 1861.1 of the Civil Code, to amend Section 10405 of the Corporations Code, to amend Section 17850 of the Education Code, to amend Sections 8203 and 13109 of the Elections Code, to amend Sections 7579, 12645, 21883, 27601, 52513, and 52976 of the Food and Agricultural Code, to amend Sections 1458, 1481, 1853, 6103.2, 6103.5, 11158, 24004, 24055, 24103, 24150, 24204, 25174, 26524, 26665, 26907, 27263, 27279, 27492, 29610, 54954, 65361, 66416.5, 66417, 68079, 68084, 68546, 68726, 71001, 71085, 71088, 71091, 71140, 71220, 71221, 71264, 71265, 71266, 71267, 71600, 71609, 73399.1, and 73685 of, to amend and renumber Sections 12035 and 12036 of, to add Section 26911 to, and to repeal Sections 12037, 12038, 26617, 29614, 29615, 66452.7, 66455.5, 71090, 71602, 71603, 71603.2, 71603.5, 71603.6, 71604, and 71604.1 of, the Government Code, to amend Sections 495.3, 495.4, 495.6, 495.8, 495.9, and 497 of the Harbors and Navigation Code, to amend Sections 40275, 41210, and 41220 of the Health and Safety Code, to amend Sections 25, 101, 102, 211, and 3352 of the Labor Code, to amend Sections 463 and 467 of the Military and Veterans Code, to amend Sections 97, 335, 597d, 599a, 703, 726, 830.1, 832.4, 981, 1053, 1119, 1311, 1529, 3081, 4004.5, 4019.5, 4533, and 13020 of the Penal Code, to amend Sections 3423.2, 3423.4, 3772.2, 3772.4, 5538.5, 5552.1, 5841, 8813, 8813.1, 8813.2, 8815.2, and 8815.3 of the Public Resources Code, to amend Sections 2192.2, 3005, 6776, 6777, 7882, 7883, 9001, 9002, 11501, 11502, 13615, 13616, 19232, 19233, 30341, 30342, 32365, 32366, 38541, 38542, 40161, 40162, 41125, 41126, 43421, 43422, 45501, 45502, 46431, 46432, 50125, 50126, 55161, 55162, 60451, and 60452 of the Revenue and Taxation Code, to amend Sections 1785 and 1786 of the Unemployment Insurance Code, to amend Section 2416 of, and to repeal Section 5005.5 of, the Vehicle Code, and to amend Section 50752 of the Water Code, relating to local government.

[Approved by Governor September 24, 1996. Filed with Secretary of State September 25, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3472, Committee on Local Government. Local government.

Existing law provides that, after making a survey in conformity with the practice of land surveying, the surveyor or civil engineer may file with the county surveyor in the county in which the survey

was made, a record of the survey and, requires that a record of the survey relating to land boundaries or property lines shall be filed if the survey discloses any of specified conditions.

This bill would instead make these provisions applicable to field surveys, as specified.

Existing law relating to the practice of land surveying specifies standards for the use of monuments in surveys.

This bill would revise those standards as specified.

Under existing law, the office of constable has been largely eliminated.

This bill would delete references to constable in various provisions and would make other related changes.

Existing law requires a school district, upon the approval by its governing board to proceed with the issuance of certificates of participation revenue bonds, to notify the county superintendent of schools and the county auditor.

This bill would delete the requirement of notification of the county auditor and would make related changes.

Existing law, relating to bonds for public officials, authorizes the use of a master official bond to provide coverage on more than one officer, employee, or agent. Existing law specifically permits a county board of supervisors to authorize a master official bond for more than one officer, employee, or agent of any special purpose assessing or taxing district whose principal office lies within the county.

This bill would, instead of the latter provision, authorize the use of a master official bond by a local public agency, as defined, for more than one officer, employee, or agent of the local public agency, and would make a related change.

Existing law designates the Office of Intergovernmental Management as the clearinghouse for specified information from the Federal Bureau of the Budget, requires that office to be the clearinghouse for requests from cities and counties, that appropriate state agencies evaluate the environmental impact of any proposed subdivision or land project, and requires the office, upon request by a city or county, to arrange for technical assistance from state agencies in connection with the evaluation of proposed subdivision maps.

This bill would rename the office the State Clearinghouse and delete the duties relating to the evaluation of the environmental impact of proposed subdivisions and land projects and to the evaluation of subdivision map acts, as described above.

Existing law provides that the county auditor may destroy certain claims, warrants, and vouchers that are more than 5 years old or at any time after the document has been recorded or reproduced if the copy is maintained for 5 years from the date of the document. The auditor may destroy an index or warrant register that is over 15 years old without reproducing it.

This bill would permit the auditor to destroy an index or warrant register that is over 5 years old without reproducing it.

Under existing law, various special districts may elect to have the county collect district assessments with the collection of county taxes by county officers.

This bill would provide that when a special district has elected to have its assessments collected by the county on the property tax roll, the district shall transmit to the county auditor, no later than August 10 of each year, a statement of the rates fixed for assessments.

Existing law requires the county recorder, upon the payment of proper fees and taxes to accept for recordation any instrument, paper, or notice that is authorized or required by law to be recorded if the instrument, paper, or notice meets specified requirements. Existing law defines "instrument" for these laws relating to recordation.

This bill would authorize the county recorder to accept, in lieu of a written paper, for recording digitized images of recordable instruments if specified requirements are met.

Existing law relating to local planning and land use requires the legislative body of each county and city to prepare and adopt a comprehensive, long-term general plan for the physical development of the county or city. The Director of Planning and Research may grant a reasonable extension of time not to exceed 2 years for the preparation and adoption of the general plan if the legislative body makes any of specified findings. During the period of the extension the city or county is not subject to certain requirements, including requirements of state law that its decisions be consistent with those portions of the general plan for which an extension has been granted.

This bill would delete the exemption from those state requirements during the extension.

The Subdivision Map Act, which generally regulates the division of land for purposes of sale, lease, or finance, defines city engineer and county surveyor, which includes a county engineer, for purposes of the act.

This bill would provide that a city engineer or county engineer registered as a civil engineer after January 1, 1982, shall not be authorized to prepare, examine, or approve surveying maps and documents but would specify that those acts shall only be performed by a person licensed as a professional land surveyor or registered prior to January 1, 1982, as a civil engineer.

Under the Subdivision Map Act, a filed tentative map may be submitted to the Office of Intergovernmental Management for an evaluation of the environmental impact of the proposed subdivision.

This bill would delete that provision.

Existing law provides that the treasury of the Bay Area Air Quality Management District shall be in the custody of a county treasurer of

a county included entirely within the bay district and that this treasurer shall be the bay district treasurer.

This bill would delete the requirement that the county of that treasurer be included entirely within the district.

Existing law specifies that the boundaries of the Mojave Desert Air Quality Management District include all of San Bernardino County not within the south coast district.

This bill would specify that the district also includes all of Riverside County not within the south coast district and would require the appointment of an additional public member to the district governing board, thereby imposing a state-mandated local program.

Existing law provides for the establishment of park and open-space districts including the Sonoma County Agricultural Preservation and Open Space District.

This bill would delete the requirement that Sonoma County officers and employees act, ex officio, as officers and employees of that district and would permit the district, by resolution, to eliminate the requirement that demands against the district which are paid without prior specific board approval be presented at the next board meeting for review and approval.

Under existing law, the Urban American River Parkway Preservation Act, the state has adopted the American River Parkway Plan consisting of the revised, updated management plans for the lower American River adopted by the County of Sacramento on December 11, 1985, by a specified resolution, and by the City of Sacramento on March 25, 1986, by a specified resolution.

The act requires that actions of state and local agencies taken with regard to land use decisions be generally consistent with the plan.

This bill would redefine the plan to include the management plans adopted by the County of Sacramento on December 11, 1985, as amended on December 20, 1995, by a specified county resolution.

Since actions of local agencies with regard to land use decisions would be required to be generally consistent with the revised, updated plans, the bill would impose a state-mandated local program.

Existing law provides that the system of plane coordinates which has been established by the United States Coast and Geodetic Survey for defining and stating the positions or locations on points of the surface of the earth within the State of California is the California Coordinate System.

This bill would make certain technical revisions in provisions concerning that system.

Existing law requires that the ballots for reclamation district elections be forwarded to the clerk of the board of supervisors.

This bill would require that those ballots be forwarded to the county clerk instead.

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.

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

SECTION 1. This act shall be known and may be cited as the Omnibus Local Government Act of 1996.

The Legislature finds and declares that operating costs can be decreased by reducing the number of separate bills affecting related topics by consolidating these bills into a single measure. Therefore, in enacting this act, it is the intent of the Legislature to consolidate minor, noncontroversial statutory changes relating to public agencies into a single measure.

SEC. 2. Section 8762 of the Business and Professions Code is amended to read:

8762. After making a field survey in conformity with the practice of land surveying, the surveyor or civil engineer may file with the county surveyor in the county in which the survey was made, a record of the survey.

After making a field survey in conformity with the practice of land surveying, the licensed land surveyor or registered civil engineer shall file with the county surveyor in the county in which the field survey was made a record of the survey relating to land boundaries or property lines, if the field survey discloses any of the following:

(a) Material evidence or physical change, which in whole or in part does not appear on any subdivision map, official map, or record of survey previously recorded or filed in the office of the county recorder or county surveying department, or map or survey record maintained by the Bureau of Land Management of the United States.

(b) A material discrepancy with the information contained in any subdivision map, official map, or record of survey previously recorded or filed in the office of the county recorder or the county surveying department, or any map or survey record maintained by the Bureau of Land Management of the United States. For purposes of this subdivision, a "material discrepancy" is limited to a material discrepancy in the position of points or lines, or in dimensions.

(c) Evidence that, by reasonable analysis, might result in materially alternate positions of lines or points, shown on any subdivision map, official map, or record of survey previously recorded or filed in the office of the county recorder or the county surveying department, or any map or survey record maintained by the Bureau of Land Management of the United States.

(d) The establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey, the positions

of which are not ascertainable from an inspection of the subdivision map, official map, or record of survey.

(e) The points or lines set during the performance of a field survey of any parcel described in any deed or other instrument of title recorded in the county recorder's office are not shown on any subdivision map, official map, or record of survey.

The record of survey required to be filed pursuant to this section shall be filed within 90 days after the setting of boundary monuments during the performance of a field survey or within 90 days after completion of a field survey, whichever occurs first.

If the 90-day time limit contained in this section cannot be complied with for reasons beyond the control of the licensed land surveyor or registered civil engineer, the 90-day time period shall be extended until such time as the reasons for delay are eliminated. If the licensed land surveyor or registered civil engineer cannot comply with the 90-day time limit, he or she shall, prior to the expiration of the 90-day time limit, provide the county surveyor with a letter stating that he or she is unable to comply. The letter shall provide an estimate of the date for completion of the record of survey, the reasons for the delay, and a general statement as to the location of the survey, including the assessor's parcel number or numbers.

The licensed land surveyor or registered civil engineer shall not initially be required to provide specific details of the survey. However, if other surveys at the same location are performed by others which may affect or be affected by the survey, the licensed land surveyor or registered civil engineer shall then provide information requested by the county surveyor without unreasonable delay.

Any record of survey filed with the county surveyor shall, after being examined by him or her, be filed with the county recorder.

SEC. 3. Section 8771 of the Business and Professions Code is amended to read:

8771. Monuments set shall be sufficient in number and durability and efficiently placed so as not to be readily disturbed, to assure, together with monuments already existing, the perpetuation or facile reestablishment of any point or line of the survey.

When monuments exist that control the location of subdivisions, tracts, boundaries, roads, streets, or highways, or provide survey control, the monuments shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer prior to the time when any streets, highways, other rights-of-way, or easements are improved, constructed, reconstructed, or relocated and a corner record of the references shall be filed with the county surveyor. They shall be reset in the surface of the new construction, a suitable monument box placed thereon, or permanent witness monuments set to perpetuate their location and a corner record filed with the county surveyor prior to the recording of a certificate of

completion for the project. Sufficient controlling monuments shall be retained or replaced in their original positions to enable property, right-of-way and easement lines, property corners, and subdivision and tract boundaries to be reestablished without devious surveys necessarily originating on monuments differing from those that currently control the area. It shall be the responsibility of the governmental agency or others performing construction work to provide for the monumentation required by this section. It shall be the duty of every land surveyor or civil engineer to cooperate with the governmental agency in matters of maps, field notes, and other pertinent records. Monuments set to mark the limiting lines of highways, roads, streets or right-of-way or easement lines shall not be deemed adequate for this purpose unless specifically noted on the records of the improvement works with direct ties in bearing or azimuth and distance between these and other monuments of record.

SEC. 4. Section 22350 of the Business and Professions Code is amended to read:

22350. (a) Any person who makes more than 10 services of process within this state during one calendar year shall file a verified certificate of registration as a process server with the county clerk of the county in which he or she resides or has his or her principal place of business.

(b) This chapter shall not apply to any of the following:

(1) Any sheriff, marshal, or government employee who is acting in the course of his or her employment.

(2) An attorney or his or her employees.

(3) Any person who is specially appointed by a court to serve its process.

(4) An employee of a person who is registered under this chapter or a person who is acting as an independent contractor pursuant to the provisions of Section 22356.5, for a person registered under this chapter.

(5) A licensed private investigator or his or her employees.

(6) Any agent or employee of a nonprofit or fraternal organization who serves process on behalf of the organization and receives no fee for that service.

SEC. 5. Section 17 of the Code of Civil Procedure is amended to read:

17. Words used in this code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular; the word "person" includes a corporation as well as a natural person; the word "county" includes "city and county"; and the words "judicial district" include "city and county"; writing includes printing and typewriting; oath includes affirmation or declaration; and every mode of oral statement, under oath or

affirmation, is embraced by the term "testify," and every written one in the term "depose"; signature or subscription includes mark, when the person cannot write, his or her name or her being written near it by a person who writes his or her own name as a witness; provided, that when a signature is by mark it must, in order that the same may be acknowledged or may serve as the signature to any sworn statement, be witnessed by two persons who must subscribe their own names as witness thereto.

The following words have in this code the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "property" includes both real and personal property;
2. The words "real property" are coextensive with lands, tenements, and hereditaments;
3. The words "personal property" include money, goods, chattels, things in action, and evidences of debt;
4. The word "month" means a calendar month, unless otherwise expressed;
5. The word "will" includes codicil;
6. The word "writ" signifies an order or precept in writing, issued in the name of the people, or of a court or judicial officer; and the word "process" a writ or summons issued in the course of judicial proceedings;
7. The word "state," when applied to the different parts of the United States, includes the District of Columbia and the territories; and the words "United States" may include the district and territories;
8. The word "section" whenever hereinafter employed, refers to a section of this code, unless some other code or statute is expressly mentioned;
9. The word "affinity" when applied to the marriage relation, signifies the connection existing in consequence of marriage, between each of the married persons and the blood relatives of the other;
10. The word "sheriff" shall include "marshal."

SEC. 6. Section 139 of the Code of Civil Procedure is amended to read:

139. If no judge attends on the day appointed for the holding or sitting of a court, or on the day to which it may have been adjourned, within one hour after the time appointed, the sheriff, marshal, or clerk shall adjourn the same until the next day, at 10 o'clock a.m.; and if no judge attend on that day, before noon, the sheriff, marshal, or clerk shall adjourn the same until the following day at the same hour; and so on, from day to day unless the judge, by written order, directs it to be adjourned to some day certain, fixed in said order, in which case it shall be so adjourned.

SEC. 7. Section 211 of the Code of Civil Procedure is amended to read:

211. When a court has no prospective jurors remaining available for voir dire from panels furnished by, or available from, the jury commissioner, and finds that not proceeding with voir dire will place a party's right to a trial by jury in jeopardy, the court may direct the sheriff or marshal to summon, serve, and immediately attach the person of a sufficient number of citizens having the qualifications of jurors, to complete the panel.

SEC. 8. Section 216 of the Code of Civil Procedure is amended to read:

216. (a) At each court facility where jury cases are heard, the board of supervisors shall provide a deliberation room or rooms for use of jurors when they have retired for deliberation. The deliberation rooms shall be designed to minimize unwarranted intrusions by other persons in the court facility, shall have suitable furnishings, equipment, and supplies, and shall also have restroom accommodations for male and female jurors.

(b) If the board of supervisors neglects to provide the facilities required by this section, the court may order the sheriff or marshal to do so, and the expenses incurred in carrying the order into effect, when certified by the court, are a county charge.

(c) Unless authorized by the jury commissioner, jury assembly facilities shall be restricted to use by jurors and jury commissioner staff.

SEC. 9. Section 217 of the Code of Civil Procedure is amended to read:

217. In criminal cases only, while the jury is kept together, either during the progress of the trial or after their retirement for deliberation, the court may direct the sheriff or marshal to provide the jury with suitable and sufficient food and lodging, or other reasonable necessities. In the superior, municipal, and justice courts, the expenses incurred under the provisions of this section shall be charged against the county or city and county in which the court is held. All those expenses shall be paid on the order of the court.

SEC. 10. Section 234 of the Code of Civil Procedure is amended to read:

234. Whenever, in the opinion of a judge of a superior, municipal, or justice court about to try a civil or criminal action or proceeding, the trial is likely to be a protracted one, or upon stipulation of the parties, the court may cause an entry to that effect to be made in the minutes of the court and thereupon, immediately after the jury is impaneled and sworn, the court may direct the calling of one or more additional jurors, in its discretion, to be known as "alternate jurors."

These alternate jurors shall be drawn from the same source, and in the same manner, and have the same qualifications, as the jurors already sworn, and shall be subject to the same examination and challenges. However, each side, or each defendant, as provided in

Section 231, shall be entitled to as many peremptory challenges to the alternate jurors as there are alternate jurors called.

The alternate jurors shall be seated so as to have equal power and facilities for seeing and hearing the proceedings in the case, and shall take the same oath as the jurors already selected, and shall, unless excused by the court, attend at all times upon the trial of the cause in company with the other jurors, but shall not participate in deliberation unless ordered by the court, and for a failure to do so are liable to be punished for contempt.

They shall obey the orders of and be bound by the admonition of the court, upon each adjournment of the court; but if the regular jurors are ordered to be kept in the custody of the sheriff or marshal during the trial of the cause, the alternate jurors shall also be kept in confinement with the other jurors; and upon final submission of the case to the jury, the alternate jurors shall be kept in the custody of the sheriff or marshal who shall not suffer any communication to be made to them except by order of the court, and shall not be discharged until the original jurors are discharged, except as provided in this section.

If at any time, whether before or after the final submission of the case to the jury, a juror dies or becomes ill, or upon other good cause shown to the court is found to be unable to perform his or her duty, or if a juror requests a discharge and good cause appears therefor, the court may order the juror to be discharged and draw the name of an alternate, who shall then take his or her place in the jury box, and be subject to the same rules and regulations as though he or she has been selected as one of the original jurors.

All laws relative to fees, expenses, and mileage or transportation of jurors shall be applicable to alternate jurors, except that in civil cases the sums for fees and mileage or transportation need not be deposited until the judge directs alternate jurors to be impaneled.

SEC. 11. Section 339 of the Code of Civil Procedure is amended to read:

339. Within two years: 1. An action upon a contract, obligation or liability not founded upon an instrument of writing, except as provided in Section 2725 of the Commercial Code or subdivision 2 of Section 337 of this code; or an action founded upon a contract, obligation or liability, evidenced by a certificate, or abstract or guaranty of title of real property, or by a policy of title insurance; provided, that the cause of action upon a contract, obligation or liability evidenced by a certificate, or abstract or guaranty of title of real property or policy of title insurance shall not be deemed to have accrued until the discovery of the loss or damage suffered by the aggrieved party thereunder.

2. An action against a sheriff or coroner upon a liability incurred by the doing of an act in an official capacity and in virtue of office, or by the omission of an official duty including the nonpayment of money collected in the enforcement of a judgment.

3. An action based upon the rescission of a contract not in writing. The time begins to run from the date upon which the facts that entitle the aggrieved party to rescind occurred. Where the ground for rescission is fraud or mistake, the time does not begin to run until the discovery by the aggrieved party of the facts constituting the fraud or mistake.

SEC. 12. Section 481.140 of the Code of Civil Procedure is amended to read:

481.140. "Levying officer" means the sheriff or marshal who is directed to execute a writ or order issued under this title.

SEC. 13. Section 491.160 of the Code of Civil Procedure is amended to read:

491.160. (a) If an order requiring a person to appear for an examination was served by a sheriff, marshal, a person specially appointed by the court in the order, or a registered process server, and the person fails to appear:

(1) The court may, pursuant to a warrant, have the person brought before the court to answer for the failure to appear and may punish the person for contempt.

(2) If the person's failure to appear is without good cause, the plaintiff shall be awarded reasonable attorney's fees incurred in the examination proceeding.

(b) A person who willfully makes an improper service of an order for an examination which subsequently results in the arrest pursuant to subdivision (a) of the person who fails to appear is guilty of a misdemeanor.

SEC. 14. Section 511.060 of the Code of Civil Procedure is amended to read:

511.060. "Levying officer" means the sheriff or marshal who is directed to execute a writ of possession issued under this chapter.

SEC. 15. Section 574 of the Code of Civil Procedure is amended to read:

574. Whenever, in the exercise of its authority, a court has ordered the deposit or delivery of money, or other thing, and the order is disobeyed, the court, beside punishing the disobedience, may make an order requiring the sheriff or marshal to take the money, or thing, and deposit or deliver it in conformity with the direction of the court.

SEC. 16. Section 680.260 of the Code of Civil Procedure is amended to read:

680.260. "Levying officer" means the sheriff or marshal.

SEC. 17. Section 708.170 of the Code of Civil Procedure is amended to read:

708.170. (a) If an order requiring a person to appear for an examination was served by a sheriff, marshal, a person specially appointed by the court in the order, or a registered process server, and the person fails to appear:

(1) The court may, pursuant to a warrant, have the person brought before the court to answer for the failure to appear and may punish the person for contempt.

(2) If the person's failure to appear is without good cause, the judgment creditor shall be awarded reasonable attorney's fees incurred in the examination proceeding. Attorney's fees awarded against the judgment debtor shall be added to and become part of the principal amount of the judgment.

(b) A person who willfully makes an improper service of an order for an examination which subsequently results in the arrest pursuant to subdivision (a) of the person who fails to appear is guilty of a misdemeanor.

SEC. 18. Section 715.040 of the Code of Civil Procedure is amended to read:

715.040. (a) A registered process server may execute the writ of possession of real property as provided in subdivisions (a) and (b) of Section 715.020 if a proper writ of possession is delivered to the sheriff or marshal and that officer does not execute the writ as provided in subdivisions (a) and (b) of Section 715.020 within three days (Saturday, Sunday, and legal holidays excluded) from the day the writ is delivered to that officer. If the writ is not executed within that time, the levying officer shall upon request give the writ to the judgment creditor or to a registered process server designated by the judgment creditor.

(b) Within five days after executing the writ under this section, all of the following shall be filed with the levying officer:

(1) The writ of possession of real property.

(2) An affidavit of the registered process server stating the manner in which the writ was executed.

(3) Proof of service of the writ.

(4) Instructions in writing, as required by the provisions of Section 687.010.

(c) If the writ is executed by a registered process server, the levying officer shall perform all other duties under the writ and shall return the writ to the court.

(d) The fee for services of a registered process server under this section may, in the court's discretion, be allowed as a recoverable cost upon a motion pursuant to Section 685.080. If allowed, the amount of the fee to be allowed is governed by Section 1033.5.

SEC. 19. Section 995.160 of the Code of Civil Procedure is amended to read:

995.160. "Officer" means the sheriff, marshal, clerk of court, judge or magistrate (if there is no clerk), board, commission, department, or other public official or entity to whom the bond is given or with whom a copy of the bond is filed or who is required to determine the sufficiency of the sureties or to approve the bond.

SEC. 20. Section 1166a of the Code of Civil Procedure is amended to read:

1166a. (a) Upon filing the complaint, the plaintiff may, upon motion, have immediate possession of the premises by a writ of possession of a manufactured home, mobilehome, or real property issued by the court and directed to the sheriff of the county or marshal, for execution, where it appears to the satisfaction of the court, after a hearing on the motion, from the verified complaint and from any affidavits filed or oral testimony given by or on behalf of the parties, that the defendant resides out of state, has departed from the state, cannot, after due diligence, be found within the state, or has concealed himself or herself to avoid the service of summons. The motion shall indicate that the writ applies to all tenants, subtenants, if any, named claimants, if any, and any other occupants of the premises.

(b) Written notice of the hearing on the motion shall be served on the defendant by the plaintiff in accordance with the provisions of Section 1011, and shall inform the defendant as follows: "You may file affidavits on your own behalf with the court and may appear and present testimony on your own behalf. However, if you fail to appear, the plaintiff will apply to the court for a writ of possession of a manufactured home, mobilehome, or real property."

(c) The plaintiff shall file an undertaking in a sum that shall be fixed and determined by the judge, to the effect that, if the plaintiff fails to recover judgment against the defendant for the possession of the premises or if the suit is dismissed, the plaintiff will pay to the defendant those damages, not to exceed the amount fixed in the undertaking, as may be sustained by the defendant by reason of that dispossession under the writ of possession of a manufactured home, mobilehome, or real property.

(d) If, at the hearing on the motion, the findings of the court are in favor of the plaintiff and against the defendant, an order shall be entered for the immediate possession of the premises.

(e) The order for the immediate possession of the premises may be enforced as provided in Division 3 (commencing with Section 712.010) of Title 9 of Part 2.

(f) For the purposes of this section, references in Division 3 (commencing with Section 712.010) of Title 9 of Part 2 and in subdivisions (e) to (m), inclusive, of Section 1174, to the "judgment debtor" shall be deemed references to the defendant, to the "judgment creditor" shall be deemed references to the plaintiff, and to the "judgment of possession or sale of property" shall be deemed references to an order for the immediate possession of the premises.

SEC. 21. Section 2015.3 of the Code of Civil Procedure is amended to read:

2015.3. The certificate of a sheriff, marshal, or the clerk of the superior, municipal, or justice court, has the same force and effect as his or her affidavit.

SEC. 22. Section 607f of the Civil Code is amended to read:

607f. (a) (1) (A) (i) On and after July 1, 1996, no entity, other than a humane society or society for the prevention of cruelty to animals, shall be eligible to apply for an appointment of any individual as a level 1 or level 2 humane officer, the duty of which shall be the enforcement of the laws for the prevention of cruelty to animals.

(ii) On and after July 1, 1996, only a person who meets the requirements of this section may be appointed as, or perform the duties of, a humane officer.

(iii) Any person appointed as a humane officer prior to July 1, 1996, may continue to serve as a humane officer until the expiration of the term of appointment only if the appointing agency maintains records pursuant to subparagraph (C) documenting that both the appointing agency and the humane officer meet the requirements of this section.

(B) Each humane society or society for the prevention of cruelty to animals that makes application to the court for the appointment of an individual to act as a level 1 or level 2 humane officer for the humane society or society for the prevention of cruelty to animals shall provide with the application documentation that demonstrates that the person has satisfactorily completed the training requirements set forth in subdivision (i).

(C) Each humane society or society for the prevention of cruelty to animals for which an individual is acting as a level 1 or level 2 humane officer shall maintain complete and accurate records documenting that the individual has successfully completed all requirements established in this section and shall make those records available, upon request, to the superior court, the Attorney General, or any entity duly authorized to review that information, including the State Humane Association of California. The records shall include the full name and address of each level 1 or level 2 humane officer.

(2) Any corporation incorporated for the purpose of the prevention of cruelty to animals that possesses insurance of at least one million dollars ($1,000,000) for liability for bodily injury or property damage may, six months after the date of its incorporation and by resolution of its board of directors or trustees duly entered on its minutes, appoint any number of persons, who shall be citizens of the State of California, as humane officers, provided that the individuals to be appointed have met the training guidelines set forth in subdivision (i).

(3) Each appointment of a humane officer shall be by separate resolution. The resolution shall state the full name and address of the appointing agency, the full name of the person so appointed, and the

fact that he or she is a citizen of the State of California, and shall also designate the number of the badge to be allotted to the officer.

(b) The humane society or society for the prevention of cruelty to animals shall recommend any appointee to the judge of the superior court in and for the county or city and county in which the humane society is incorporated, and shall deliver to the judge a copy of the resolution appointing the person, duly certified to be correct by the president and secretary of the corporation and attested by its seal, together with the fingerprints of the appointee taken on standard 8-×8-inch cards, proof of the society's proper incorporation in compliance with Part 9 (commencing with Section 10400) of Division 2 of the Corporations Code, a copy of the society's liability for bodily injury or property damage insurance policy in the amount of at least one million dollars ($1,000,000), and documentation establishing that the appointee has satisfactorily completed the training requirements set forth in this section.

(c) The judge shall send a copy of the resolution, together with the fingerprints of the appointee, to the Department of Justice, which shall thereupon submit to the judge, in writing, a report of the record in its possession, if any, of the appointee. If the Department of Justice has no record of the appointee, it shall so report to the judge in writing.

(d) Upon receipt of the report the judge shall review the matter of the appointee's qualifications and fitness to act as a humane officer and, if he or she reaffirms the appointment, shall so state on a court order confirming the appointment. The appointee shall thereupon file a certified copy of the reviewed court order in the office of the county clerk of the county or city and county and shall, at the same time, take and subscribe the oath of office prescribed for other peace officers.

(e) The county clerk shall thereupon immediately enter in a book to be kept in his or her office and designated "Record of Humane Officers" the name of the officer, the name of the agency appointing him or her, the number of his or her badge, the name of the judge appointing him or her, and the date of the filing. At the time of the filing the county clerk shall collect from the officer a fee of five dollars ($5), which shall be in full for all services to be performed by the county clerk under this section.

(f) All appointments of humane officers shall automatically expire if the society disbands or legally dissolves. In addition, all appointments of humane officers shall automatically expire within three years from the date on which the certified copy of the court order was filed with the county clerk. Officers whose appointments are about to expire may only be reappointed after satisfactorily completing the continuing education and training set forth in this section.

(g) (1) The corporation appointing an officer may revoke an appointment at any time by filing in the office of the county clerk in which the appointment of the officer is recorded a copy of the revocation in writing under the letterhead of the corporation and duly certified by its executive officer. Upon the filing the county clerk shall enter the fact of the revocation and the date of the filing thereof opposite the name of the officer in the record of humane officers.

(2) Notwithstanding paragraph (1), a revocation hearing may be initiated by petition from any duly authorized sheriff or local police agency or the State Humane Association of California. The petition shall show cause why an appointment should be revoked and shall be made to the superior court in the jurisdiction of the appointment.

(h) The corporation or local humane society appointing the humane officer shall pay the training expenses of the humane officer attending the training required pursuant to this section.

(i) (1) (A) A level 1 humane officer is not a peace officer, but may exercise the powers of a peace officer at all places within the state in order to prevent the perpetration of any act of cruelty upon any animal and to that end may summon to his or her aid any bystander. A level 1 humane officer may use reasonable force necessary to prevent the perpetration of any act of cruelty upon any animal.

(B) A level 1 humane officer may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as any peace officer and may also serve search warrants.

(C) A level 1 humane officer is authorized to carry firearms while exercising the duties of a humane officer, upon satisfactory completion of the training specified in subparagraph (D) and the basic training for a level I reserve officer by the Commission on Peace Officer Standards and Training pursuant to Section 13510.1 of the Penal Code.

(D) A level 1 humane officer shall, prior to appointment, provide evidence satisfactory to the appointing agency that he or she has successfully completed courses of training in the following subjects:

(i) At least 20 hours of a course of training in animal care sponsored or provided by an accredited postsecondary institution or any other provider approved by the California Veterinary Medical Association, the focus of which shall be the identification of disease, injury, and neglect in domestic animals and livestock.

(ii) At least 40 hours of a course of training in the state humane laws relating to the powers and duties of a humane officer, sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.

(E) No person shall be appointed as a level 1 humane officer until they have satisfied the requirements in Sections 1029, 1030, and 1031 of the Government Code. A humane society or society for the prevention of cruelty to animals shall complete a background

investigation, using standards defined by the Commission on Peace Officer Standards and Training as guidelines for all level 1 humane officer appointments.

(F) In order to be eligible for reappointment, a level 1 humane officer shall complete ongoing weapons training and range qualifications at least every six months pursuant to subdivision (s) of Section 830.3 of the Penal Code and shall, every three years, complete 40 hours of continuing education and training relating to the powers and duties of a humane officer, which education and training shall be provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.

(G) (i) Notwithstanding any other provision of this section, a level 1 humane officer may carry firearms only if authorized by, and only under the terms and conditions specified by, his or her appointing agency.

(ii) Notwithstanding any other provision of this section, a level 1 humane officer shall not be authorized to carry firearms unless and until his or her appointing agency has adopted a policy on the use of deadly force by its officers and the officer has been instructed in that policy.

(2) (A) A level 2 humane officer is not a peace officer, but may exercise the powers of a peace officer at all places within the state in order to prevent the perpetration of any act of cruelty upon any animal and to that end may summon to his or her aid any bystander. A level 2 humane officer may use reasonable force necessary to prevent the perpetration of any act of cruelty upon any animal.

(B) A level 2 humane officer may make arrests for the violation of any penal law of this state relating to or affecting animals in the same manner as any peace officer and may serve search warrants during the course and within the scope of employment, upon the successful completion of a course relating to the exercise of the police powers specified in Section 832 of the Penal Code, except the power to carry and use firearms.

(C) A level 2 humane officer is not authorized to carry firearms.

(D) A level 2 humane officer shall, prior to appointment, provide evidence satisfactory to the appointing agency that he or she has successfully completed courses of training in the following subjects:

(i) At least 20 hours of a course of training in animal care sponsored or provided by an accredited postsecondary institution or any other provider approved by the California Veterinary Medical Association, the focus of which is the identification of disease, injury, and neglect in domestic animals and livestock.

(ii) At least 40 hours of a course of training in the state humane laws relating to the powers and duties of a humane officer, sponsored or provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.

(E) In order to be eligible for reappointment, a level 2 humane officer shall, every three years, complete 40 hours of continuing education and training relating to the powers and duties of a humane officer, which education and training shall be provided by an accredited postsecondary institution, law enforcement agency, or the State Humane Association of California.

(j) Every humane officer shall, when making an arrest, exhibit and expose a suitable badge to be adopted by the corporation under this title of which he or she is a member which shall bear its name and a number. Uniforms worn by humane officers shall prominently display the name of the appointing agency. Humane officer uniforms shall not display the words "state" or "California," unless part of the appointing agency's incorporated name.

(k) Any person resisting a humane officer in the performance of his or her duty as provided in this section, is guilty of a misdemeanor. Any person who has not been appointed and qualified as a humane officer as provided in this section, or whose appointment has been revoked as provided in this section, or whose appointment, having expired, has not been renewed as provided in this section, who shall represent himself or herself to be or shall attempt to act as an officer shall be guilty of a misdemeanor.

(*l*) No humane officer shall serve a search warrant without providing prior notice to local law enforcement agencies operating within that jurisdiction.

(m) Any humane society, society for the prevention of cruelty to animals, or person, who knowingly provides a court with false or forged documentation for the appointment of a humane officer, is guilty of a misdemeanor and shall be punished by a fine of up to ten thousand dollars ($10,000).

(n) A humane society or a society for the prevention of cruelty to animals shall notify the sheriff of the county in which the society is incorporated, prior to appointing a humane officer, of the society's intent to enforce laws for the prevention of cruelty to animals. Humane societies or societies for the prevention of cruelty to animals incorporated and enforcing animal cruelty laws prior to January 1, 1996, that intend to continue to enforce those laws, shall notify the sheriff of the county in which the society is incorporated by March 1, 1996.

(o) Except as otherwise provided by this section, a humane officer shall serve only in the county in which he or she is appointed. A humane officer may serve temporarily in a county other than that in which he or she is appointed if the humane officer gives notice requesting consent to the sheriff of the county in which he or she intends to serve, and acquires consent from the sheriff of the county in which he or she intends to serve, or from a person authorized by the sheriff to give that consent. A sheriff shall promptly respond to

any request by a humane officer to serve in his or her jurisdiction and any request shall not be unreasonably denied.

SEC. 23. Section 1861.1 of the Civil Code is amended to read:

1861.1. Definitions for purposes of Sections 1861 through 1861.27 include the following:

(a) "Hotel", "motel", "inn", "boardinghouse", and "lodginghouse keeper" means any person, corporation, partnership, unincorporated association, public entity, or agent of any of the aforementioned, who offers and accepts payment for rooms, sleeping accommodations, or board and lodging and retains the right of access to, and control of, the dwelling unit.

(b) "Levying officer" means the sheriff or marshal who is directed to execute a writ of possession issued pursuant to this article.

(c) "Plaintiff" means any party filing a complaint or cross complaint.

(d) "Probable validity" means that the plaintiff, more likely than not, will obtain a judgment against the defendant on the plaintiff's claim.

SEC. 24. Section 10405 of the Corporations Code is amended to read:

10405. All magistrates, sheriffs, and officers of police shall, as occasion may require, aid any such corporation, its officers, members, and agents, in the enforcement of all laws relating to or affecting children or animals.

SEC. 25. Section 17850 of the Education Code is amended to read:

17850. (a) Upon the approval by the governing board of the school district to proceed with the issuance of certificates of participation revenue bonds, the school district shall notify the county superintendent of schools. The superintendent of the school district shall provide the repayment schedules for that debt obligation, and evidence of the ability of the school district to repay that obligation, to the county superintendent, the governing board, and the public. Within 15 days of the receipt of the information, the county superintendent of schools may comment publicly to the governing board of the school district regarding the capability of the school district to repay that debt obligation.

(b) Upon the approval by the county board of education to proceed with the issuance of certificates of participation or revenue bonds, the county superintendent of schools or superintendent of a school district for which the county board serves as governing board shall notify the Superintendent of Public Instruction. The county superintendent of schools or the superintendent of a school district for which the county board serves as the governing board shall provide the repayment schedules for that debt obligation and evidence of the ability of the county office of education or school district to repay that obligation, to the Superintendent of Public Instruction, the governing board, and the public. Within 15 days of

the receipt of the information the Superintendent of Public Instruction may comment publicly to the county board of education regarding the capability of the county office of education or school district to repay that debt obligation.

SEC. 26. Section 8203 of the Elections Code is amended to read:

8203. In any county or any judicial district in which only the incumbent has filed nomination papers for the office of superior court judge, municipal court judge, or justice court judge, his or her name shall not appear on the ballot unless there is filed with the elections official, within 10 days after the final date for filing nomination papers for the office, a petition indicating that a write-in campaign will be conducted for the office and signed by 100 registered voters qualified to vote with respect to the office.

If a petition indicating that a write-in campaign will be conducted for the office at the general election, signed by 100 registered voters qualified to vote with respect to the office, is filed with the elections official not less than 83 days before the general election, the name of the incumbent shall be placed on the general election ballot if it has not appeared on the direct primary election ballot.

If, in conformity with this section, the name of the incumbent does not appear either on the primary ballot or general election ballot, the elections official, on the day of the general election, shall declare the incumbent reelected. Certificates of election specified in Section 15401 or 15504 shall not be issued to a person reelected pursuant to this section before the day of the general election.

SEC. 27. Section 13109 of the Elections Code is amended to read:

13109. The order of precedence of offices on the ballot shall be as listed below for those offices and measures that apply to the election for which this ballot is provided. Beginning in the column to the left:

(a) Under the heading, PRESIDENT AND VICE PRESIDENT:

Nominees of the qualified political parties and independent nominees for President and Vice President.

(b) Under the heading, PRESIDENT OF THE UNITED STATES:

(1) Names of the presidential candidates to whom the delegates are pledged.

(2) Names of chairmen of unpledged delegations.

(c) Under the heading, STATE:

(1) Governor.

(2) Lieutenant Governor.

(3) Secretary of State.

(4) Controller.

(5) Treasurer.

(6) Attorney General.

(7) Insurance Commissioner.

(8) Member, State Board of Equalization.

(d) Under the heading, UNITED STATES SENATOR:

Candidates or nominees to the United States Senate.

(e) Under the heading, UNITED STATES REPRESENTATIVE:
Candidates or nominees to the House of Representatives of the United States.
(f) Under the heading, STATE SENATOR:
Candidates or nominees to the State Senate.
(g) Under the heading, MEMBER OF THE STATE ASSEMBLY:
Candidates or nominees to the Assembly.
(h) Under the heading, COUNTY COMMITTEE:
Members of County Central Committee.
(i) Under the heading, JUDICIAL:
(1) Chief Justice of California.
(2) Associate Justice of the Supreme Court.
(3) Presiding Justice, Court of Appeal.
(4) Associate Justice, Court of Appeal.
(5) Judge of the Superior Court.
(6) Judge of the Municipal Court.
(7) Judge of the Justice Court.
(8) Marshal.
(j) Under the heading, SCHOOL:
(1) State Superintendent of Public Instruction.
(2) County Superintendent of Schools.
(3) County Board of Education Members.
(4) College District Governing Board Members.
(5) Unified District Governing Board Members.
(6) High School District Governing Board Members.
(7) Elementary District Governing Board Members.
(k) Under the heading, COUNTY:
(1) County Supervisor.
(2) Other offices in alphabetical order by the title of the office.
(*l*) Under the heading, CITY:
(1) Mayor.
(2) Member, City Council.
(3) Other offices in alphabetical order by the title of the office.
(m) Under the heading, DISTRICT:
Directors or trustees for each district in alphabetical order according to the name of the district.
(n) Under the heading, MEASURES SUBMITTED TO VOTE OF VOTERS and the appropriate heading from subdivisions (a) through (m), above, ballot measures in the order, state through district shown above, and within each jurisdiction, in the order prescribed by the official certifying them for the ballot.
(o) In order to allow for the most efficient use of space on the ballot in counties that use a voting system, as defined in Section 362, the county elections official may vary the order of subdivisions (j), (k), (*l*), and (m) as well as the order of offices within these subdivisions. However, the office of State Superintendent of Public Instruction shall always precede any school, county, or city office.

SEC. 28. Section 7579 of the Food and Agricultural Code is amended to read:

7579. If the owner fails to comply with the order of the court within the time which is specified in the order, the court may order disposal, or sale, under such terms and conditions as the court may prescribe, by the director or the commissioner, or by the sheriff or marshal.

SEC. 29. Section 12645 of the Food and Agricultural Code is amended to read:

12645. If the owner fails to comply with the order of the court within the time which is specified in the order, the court may order the disposal or sale of the produce or containers which are a nuisance, under the terms and conditions as the court may prescribe, by the director, or by the sheriff or marshal.

SEC. 30. Section 21883 of the Food and Agricultural Code is amended to read:

21883. The report shall be given by telephone, telegraph, or mail to the owner of the animal if known. If the owner of the animal is unknown, the report shall be given to the office of the sheriff or brand inspector whose office or established headquarters is, to the knowledge of the railroad employee who makes the report, the nearest to the place of the collision.

SEC. 31. Section 27601 of the Food and Agricultural Code is amended to read:

27601. Upon the request of the director or an authorized representative, the district attorney of the county in which the eggs and their containers which are a public nuisance are found, shall maintain, in the name of the people of the State of California, a civil action to abate and prevent the public nuisance.

Upon judgment and by order of the court, the eggs and their containers which are a public nuisance shall be condemned and destroyed in the manner which is directed by the court, or reconditioned, re-marked, denatured, or otherwise processed, or released upon the conditions as the court in its discretion may impose to ensure that the nuisance is abated.

If the owner fails to comply with the order of the court within the time specified in the order, the court may order disposal of the eggs and their containers or their sale, under the terms and conditions as the court may prescribe, by the enforcement officer, or by the sheriff or marshal.

If the court orders the sale of any of the eggs and their containers which can be salvaged, the costs of disposal shall be deducted from the proceeds of sale and the balance paid into court for the owner.

In actions arising pursuant to this chapter or any regulation adopted pursuant to this chapter the following limits shall apply:

(a) Municipal courts shall have original jurisdiction where the value of the property seized amounts to five thousand dollars ($5,000) or less.

(b) Justice courts shall have original jurisdiction where the value amounts to five hundred dollars ($500) or less.

A public nuisance described in this section may only be abated in any action or proceeding pursuant to the remedies provided by this chapter. This chapter provides the exclusive source of costs and civil penalties which may be assessed by reason of the public nuisance against the owner of eggs and their containers which are found to be a public nuisance.

SEC. 32. Section 52513 of the Food and Agricultural Code is amended to read:

52513. If the owner fails to comply with the order of the court within the time which is specified in the order, the court may order disposal of the seed and containers, or their sale, under those terms and conditions as the court may prescribe, by the director or the commissioner or any enforcing officer of this chapter, or by the sheriff or marshal. If the court orders the sale of any of the seed and containers which can be salvaged, the costs of disposal shall be deducted from the proceeds of sale and the balance paid into court for the owner.

SEC. 33. Section 52976 of the Food and Agricultural Code is amended to read:

52976. If the owner fails to comply with the order of the court within the time that is specified in the order, the court shall order the secretary, commissioner, sheriff, or marshal to dispose of the seed cotton, cotton plant, or cottonseed and containers, under those terms and conditions as the court may describe.

If the court orders the sale of any of the seed cotton, cotton plants, or cottonseed and containers that can be salvaged, the costs of disposal shall be deducted from the proceeds of sale and the balance shall be paid into court for the owner.

SEC. 34. Section 1458 of the Government Code is amended to read:

1458. The bonds of supervisors, treasurers, county clerks, auditors, sheriffs, tax collectors, district attorneys, recorders, assessors, surveyors, superintendents of schools, public administrators, and coroners shall be approved by the presiding judge of the superior court before the bonds can be recorded and filed.

SEC. 35. Section 1481 of the Government Code is amended to read:

1481. (a) When deemed expedient by the appointing power, a master official bond, or other form of master bond may be used which shall provide coverage on more than one officer, employee or agent

who is required by the appointing power or the board of supervisors of a chartered or general law county to give bond.

(b) Notwithstanding any other provision of law, when deemed expedient by the legislative body of a local public agency, a master official bond, or other form of master bond, may be used which shall provide coverage on more than one officer, employee, or agent of the local public agency, whether elected or appointed, who is required by statute, regulation, the appointing power, the governing board of a local public agency, or the board of supervisors of a chartered or general law county to give bond.

(c) A master bond under this section shall be in the form and for the term which is approved by the appointing power or the legislative body of a local public agency, and shall inure to the benefit of the appointing power, state, or local public agency by whom the officer, employee, or agent is employed as well as the officer or officers under whom the employee or agent serves.

(d) "Local public agency" means any city or county, whether general law or chartered, city and county, special district, school district, municipal corporation, political subdivision, joint powers authority or agency created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, or any board, commission, or agency thereof, or other local public agency, but shall not mean the state or any agency or department of the state.

(e) "Legislative body" means the board of supervisors of a county or city, or the governing board, by whatever name called, of a local public agency.

(f) In the case of the State of California the form and content of the bond shall be subject to the approval of the Director of General Services.

SEC. 36. Section 1853 of the Government Code is amended to read:

1853. The execution of the order and the delivery of the books and papers may be enforced by:

(a) Attachment as for a witness.

(b) At the request of the petitioner, by a warrant directed to the sheriff of the county commanding him to search for those books and papers, and to take and deliver them to the petitioner.

SEC. 37. Section 6103.2 of the Government Code is amended to read:

6103.2. (a) Section 6103 does not apply to any fee or charge or expense for official services rendered by a sheriff or marshal in connection with the levy of writs of attachment, execution, possession, or sale. The fee, charge, or expense may be advanced to the sheriff or marshal, as otherwise required by law.

(b) (1) Notwithstanding Section 6103, the sheriff or marshal, in connection with the service of process or notices, may require that all fees which a public agency, or any person or entity, is required to

pay under provisions of law other than this section, be prepaid by a public agency named in Section 6103, or by any person or entity, prior to the performance of any official act. This authority to require prepayment shall include fees governed by Section 6103.5.

(2) This subdivision does not apply to the service of process or notices in any action by the district attorney's office for the establishment or enforcement of a child support obligation.

(3) This subdivision does not apply to a particular jurisdiction unless the sheriff or marshal, as the case may be, imposes the requirement of prepayment upon public agencies and upon all persons or entities within the private sector.

SEC. 38. Section 6103.5 of the Government Code is amended to read:

6103.5. (a) Whenever a judgment is recovered by a public agency named in Section 6103, either as plaintiff or petitioner or as defendant or respondent, in any action or proceeding to begin, or to defend, which under the provisions of Section 6103 no fee for any official service rendered by the clerk of the court, including, but not limited to, the services of filing, certifying, and preparing transcripts, nor fee for service of process or notices by a sheriff or marshal has been paid, other than in a condemnation proceeding, quiet title action, action for the forfeiture of a fish net or nets or action for the forfeiture of an automobile or automobiles, the clerk entering the judgment shall include as a part of the judgment the amount of the filing fee and the amount of the fee for the service of process or notices which would have been paid but for Section 6103, designating it as such. The clerk entering the judgment shall include as part of the judgment the amount of the fees for certifying and preparing transcripts if the court has, in its discretion, ordered those fees to be paid. When an amount equal to the clerk's fees and the fees for service of process and notices is collected upon that judgment, those amounts shall be due and payable to the clerk and the serving officer respectively. The clerk shall ascertain from the serving officer's return the amount of fees he or she would have charged had it not been for the provisions of Section 6103. Remittances of the amounts so due shall be made within 45 days by the fiscal officer of the plaintiff or petitioner or respondent or defendant in the action or proceeding unless those fees have been collected by the levying officer and remitted to the court. No interest shall be computed or charged on the amount of the fee.

(b) If the remittance is not received within 45 days of the filing of a partial satisfaction of judgment in an amount at least equal to the fees due to the clerk or a satisfaction of judgment has been filed, notwithstanding any other provision of law, the court may issue a writ of execution for recovery from the public agency of those fees plus the fees for issuance and execution of the writ plus a fee for administering this section.

(c) The board of supervisors shall set a fee, not to exceed the actual costs of administering this section, up to a maximum of twenty-five dollars ($25), which shall be added to the writ of execution.

SEC. 39. Section 11158 of the Government Code is amended to read:

11158. The sheriffs in the several counties shall execute all lawful orders of a department in their counties.

SEC. 40. Section 12035 of the Government Code is amended and renumbered to read:

65040.10. As used in this article, "State Clearinghouse" means the office of that name established by executive action of the Governor or any successor office designated by the Governor as the clearinghouse for information from the Office of Management and Budget in accordance with the Intergovernmental Cooperation Act of 1968 (P.L. 90-577).

SEC. 41. Section 12036 of the Government Code is amended and renumbered to read:

65040.11. The "State Clearinghouse" shall submit such information acquired by it pursuant to the application of the Intergovernmental Cooperation Act of 1968 (P.L. 90-577) to an agency designated for that purpose by concurrent resolution of the Legislature.

SEC. 42. Section 12037 of the Government Code is repealed.

SEC. 43. Section 12038 of the Government Code is repealed.

SEC. 44. Section 24004 of the Government Code is amended to read:

24004. (a) Except as otherwise provided in this section and Section 24004.5, a sheriff or clerk, or any of their deputies, shall not do any of the following:

(1) Practice law or have as a partner a lawyer or anyone who acts as a lawyer for a collection agency.

(2) Act as a collector or for any collection agency or have as a partner a collector or anyone who acts as a collector for a collection agency in the county where he resides and holds office.

(b) Paragraph (1) of subdivision (a) shall not apply to a reserve or auxiliary deputy sheriff who is admitted to practice law in this state. However, a reserve or auxiliary deputy sheriff may not represent any person in any matter concerning an event or transaction if the reserve or auxiliary deputy sheriff has performed or knows he will perform any act relating to the event or transaction in performance of his or her duties as a reserve or auxiliary deputy sheriff.

SEC. 45. Section 24055 of the Government Code is amended to read:

24055. Any clerk, judge of a justice court, or sheriff who receives any fine or forfeiture and refuses or neglects to pay it over according to law and within 30 days after its receipt is guilty of a misdemeanor.

SEC. 46. Section 24103 of the Government Code is amended to read:

24103. A person shall not be appointed deputy sheriff or deputy marshal unless he is a citizen of this state.

SEC. 47. Section 24150 of the Government Code is amended to read:

24150. Prior to the primary election immediately preceding the election of county officers, the board of supervisors shall prescribe the amounts of the official bonds of the treasurer, county clerk, auditor, sheriff, tax collector, district attorney, recorder, assessor, surveyor, superintendent of schools, public administrator, and coroner.

SEC. 48. Section 24204 of the Government Code is amended to read:

24204. Whenever any county frames and adopts a charter for its government, which is approved by the Legislature, and the charter provides for the appointment of any officers of a county, the officers first appointed under the charter are the successors of the like elective officers in office at the time of the approval of the charter. The elective officers shall continue to hold office for the term for which they were elected and until the appointment and qualification of their successors under the charter. No election for any officer whose successor is to be appointed shall be had at any election held subsequent to the approval of the charter, except to fill a vacancy for an unexpired term.

SEC. 49. Section 25174 of the Government Code is amended to read:

25174. Upon receipt of the report, the judge of the superior court shall issue an attachment directed to any sheriff, marshal, or police chief in the State of California, commanding him or her to attach that person and forthwith bring him or her before the judge who ordered the attachment issued.

SEC. 50. Section 26524 of the Government Code is amended to read:

26524. Upon request of any judge of the superior, municipal, or justice court, the district attorney shall appear for and represent the court or judge if the court or judge in his or her official capacity is a party defendant in any action.

SEC. 51. Section 26617 of the Government Code is repealed.

SEC. 52. Section 26665 of the Government Code is amended to read:

26665. All writs, notices, or other process issued by superior, municipal, or justice courts in civil actions or proceedings may be served by any duly qualified and acting marshal or sheriff of any county in the State, subject to the Code of Civil Procedure.

SEC. 53. Section 26907 of the Government Code is amended to read:

26907. Notwithstanding Section 26201, 26202, or 26205, the auditor or ex officio auditor may destroy any county, school, or special district claim, warrant, or any other paper issued as a warrant voucher that is more than five years old, or at any time after the document has been photographed, microphotographed, reproduced by electronically recorded video images on magnetic surfaces, or reproduced on film of a type approved for permanent photographic records by the National Bureau of Standards if the copy is kept or maintained for five years from the date of the document.

The auditor may make a photographic record of an index or warrant register and may provide for the destruction of the index or warrant register. Any index or warrant register that is over five years old may be destroyed without being photographically or microphotographically reproduced.

SEC. 54. Section 26911 is added to the Government Code, to read:

26911. Whenever a special district has elected to have its assessments collected by the county on the property tax roll, the district shall transmit to the county auditor, no later than August 10 of each year, a statement of the rates fixed for assessments.

SEC. 55. Section 27263 of the Government Code is amended to read:

27263. When a conveyance is executed by a sheriff or marshal, the name of the sheriff or marshal and the party charged in the execution shall both be inserted in the index. When an instrument is recorded to which an executor, administrator, or trustee is a party, the name of the executor, administrator, or trustee and the name of the testator, or intestate, or party for whom the trust is held, shall be inserted in the index. The recorder need not index the name of the trustee in a deed of trust or in a partial or full deed of reconveyance. A trustee's deed given upon exercise of the power of sale under any deed of trust shall be indexed under the names of the original trustor and the grantee named therein.

SEC. 56. Section 27279 of the Government Code is amended to read:

27279. (a) "Instrument," as used in this chapter, means a written paper signed by a person or persons transferring the title to, or giving a lien on real property, or giving a right to a debt or duty.

(b) The recorder of any county may, in lieu of a written paper, accept for recording digitized images of recordable instruments if both of the following conditions are met:

(1) The image conforms to all other applicable statutes that prescribe recordability, except the requirement of original signatures in subdivision (b) of Section 27201.

(2) The requester and addressee for delivery of the recorded images are the same and can be readily identified as a local or state government entity, or an agency, branch, or instrumentality of the federal government.

SEC. 57. Section 27492 of the Government Code is amended to read:

27492. The coroner shall summon, or cause to be summoned by any sheriff or policeman, not less than nine nor more than 15 persons, qualified by law to serve as jurors, to appear before him forthwith, either at the place where the body of the deceased is or at some other convenient place within the county designated by him, or at the request of the district attorney, to inquire into the cause of the death.

SEC. 58. Section 29610 of the Government Code is amended to read:

29610. The expenses of any elected county officer, one marshal of a municipal court chosen by the marshals of the municipal courts, and one judge of a justice court chosen by the judges of the justice courts incurred while traveling to and from and while attending the annual convention of his or her respective association, are county charges which do not require prior approval of the board of supervisors. The board of supervisors may require prior approval by the board of supervisors for any other officer or employee to incur those expenses as county charges.

SEC. 59. Section 29614 of the Government Code is repealed.

SEC. 60. Section 29615 of the Government Code is repealed.

SEC. 61. Section 53954 of the Government Code is amended to read:

53954. (a) Before any money is withdrawn from the county treasury to be placed in the revolving fund of a special district, the officer for whose use the fund is created shall file with the governing body of the district and the auditor a bond executed by himself as principal and by an admitted surety insurer, in an amount equal to that of the revolving fund. The bond shall be conditioned upon the faithful administration of the fund and upon the willingness and ability of the principal to account for and pay over the fund upon demand of the governing board of the district at any time.

(b) In lieu of the bond provided for in subdivision (a) of this section, any officer of the district required by statute to furnish an official bond, and any district which purchases and maintains a blanket bond on all or certain of its employees in accordance with Section 1481, may cause such a bond or bonds to be issued or amended by endorsement to be conditioned, in addition to its other provisions, upon the faithful administration of the revolving fund and upon the willingness and ability of the principal or principals, for whose use such a fund or funds have been established, to account for and pay over the fund or funds upon demand of the governing board of the district at any time.

SEC. 62. Section 65361 of the Government Code is amended to read:

65361. (a) Notwithstanding any other provision of law, upon application by a city or county, the Director of Planning and

Research shall grant a reasonable extension of time not to exceed two years from the date of issuance of the extension, for the preparation and adoption of all or part of the general plan, if the legislative body of the city or county, after a public hearing, makes any of the following findings:

(1) Data required for the general plan shall be provided by another agency and it has not yet been provided.

(2) In spite of sufficient budgetary provisions and substantial recruiting efforts, the city or county has not been able to obtain necessary staff or consultant assistance.

(3) A disaster has occurred requiring reassignment of staff for an extended period or requiring a complete reevaluation and revision of the general plan, or both.

(4) Local review procedures require an extended public review process that has resulted in delaying the decision by the legislative body.

(5) The city or county is jointly preparing all or part of the general plan with one or more other jurisdictions pursuant to an existing agreement and timetable for completion.

(6) Other reasons exist that justify the granting of an extension, so that the timely preparation and adoption of a general plan is promoted.

(b) The director shall not grant an extension of time for the preparation and adoption of a housing element except in the case of a newly incorporated city or newly formed county that cannot meet the deadline set by Section 65360. Before the director grants an extension of time pursuant to this subdivision, he or she shall consult with the Director of Housing and Community Development.

(c) The application for an extension shall contain all of the following:

(1) A resolution of the legislative body of the city or county adopted after public hearing setting forth in detail the reasons why the general plan was not previously adopted as required by law or needs to be revised, including one or more of the findings made by the legislative body pursuant to subdivision (a), and the amount of additional time necessary to complete the preparation and adoption of the general plan.

(2) A detailed budget and schedule for preparation and adoption of the general plan, including plans for citizen participation and expected interim action. The budget and schedule shall be of sufficient detail to allow the director to assess the progress of the applicant at regular intervals during the term of the extension. The schedule shall provide for adoption of a complete and adequate general plan within two years of the date of the application for the extension.

(3) A set of proposed policies and procedures which would ensure, during the extension of time granted pursuant to this section, that the

land use proposed in an application for a subdivision, rezoning, use permit, variance, or building permit will be consistent with the general plan proposal being considered or studied.

(d) The director may impose any conditions on extensions of time granted that the director deems necessary to ensure compliance with the purposes and intent of this title. Those conditions shall apply only to those parts of the general plan for which the extension has been granted. In establishing those conditions, the director may adopt or modify and adopt any of the policies and procedures proposed by the city or county pursuant to paragraph (3) of subdivision (c).

(e) During the extension of time specified in this section, the city or county is not subject to the requirement that a complete and adequate general plan be adopted, or the requirements that it be adopted within a specific period of time. Development approvals shall be consistent with those portions of the general plan for which an extension has been granted, except as provided by the conditions imposed by the director pursuant to subdivision (d). Development approvals shall be consistent with any element or elements that have been adopted and for which an extension of time is not sought.

(f) If a city or county that is granted a time extension pursuant to this section determines that it cannot complete the elements of the general plan for which the extension has been granted within the prescribed time period, the city or county may request one additional extension of time, which shall not exceed one year, if the director determines that the city or county has made substantial progress toward the completion of the general plan. This subdivision shall not apply to an extension of time granted pursuant to subdivision (b).

(g) An extension of time granted pursuant to this section for the preparation and adoption of all or part of a city or county general plan is exempt from Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 63. Section 66416.5 of the Government Code is amended to read:

66416.5. (a) "City engineer" means the person authorized to perform the functions of a city engineer. The land surveying functions of a city engineer may be performed by a city surveyor, if that position has been created by the local agency.

(b) A city engineer registered as a civil engineer after January 1, 1982, shall not be authorized to prepare, examine, or approve the surveying maps and documents. The examinations, certifications, and approvals of the surveying maps and documents shall only be performed by a person authorized to practice land surveying pursuant to the Professional Land Surveyors' Act (Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code) or a person registered as a civil engineer prior to January 1, 1982, pursuant to the Professional Engineers Act (Chapter

7 (commencing with Section 6700) of Division 3 of the Business and Professions Code).

(c) Nothing contained in this provision shall prevent a city engineer from delegating the land surveying functions to a person authorized to practice land surveying. Where there is no person authorized to practice land surveying within the city or agency, nothing shall prevent the city engineer from contracting with a person who is authorized to practice land surveying to perform the land surveying functions.

SEC. 64. Section 66417 of the Government Code is amended to read:

66417. (a) "County surveyor" includes county engineer, if there is no county surveyor.

(b) A county engineer registered as a civil engineer after January 1, 1982, shall not be authorized to prepare, examine, or approve the surveying maps and documents. The examinations, certifications, and approvals of the surveying maps and documents shall only be performed by a person authorized to practice land surveying pursuant to the Professional Land Surveyors' Act (Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code) or a person registered as a civil engineer prior to January 1, 1982, pursuant to the Professional Engineers Act (Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code).

SEC. 65. Section 66452.7 of the Government Code is repealed.

SEC. 65.5. Section 66455.5 of the Government Code is repealed.

SEC. 66. Section 68079 of the Government Code is amended to read:

68079. A court for which the necessary seal has not been provided, or the judge or judges of that court, shall request the board of supervisors of the county to provide the seal, and, if it fails to do so, may order the sheriff to provide it. The expense shall be a charge against the county and paid out of the general fund. Until the seal is provided the clerk or judge of each court may use his private seal whenever a seal is required.

SEC. 67. Section 68084 of the Government Code is amended to read:

68084. When any money is deposited with the clerk or judge of any court pursuant to any action or proceeding in the court, or pursuant to any order, decree, or judgment of the court, or when any money is to be paid to the treasurer pursuant to any provision of this title or the Code of Civil Procedure, that money shall be deposited as soon as practicable after the receipt thereof with the treasurer and a duplicate receipt of the treasurer for it shall be filed with the auditor. The certificate of the auditor that a duplicate receipt has been filed is necessary before the clerk, judge, or party required to

deposit the money is entitled to a discharge of the obligation imposed upon him to make the deposit.

When any money so deposited is to be withdrawn or paid out, the order directing the payment or withdrawal shall require the auditor to draw his warrant for it and the treasurer to pay it. In any city governed by a charter, such withdrawals shall be made pursuant to the charter.

Notwithstanding any other provision of law, any municipal court or justice court, or marshal of that court, may elect, with prior approval of the county auditor, to deposit in a bank account or deposit in a savings and loan association pursuant to Section 53679 all moneys deposited with that court, or with the clerk thereof, or received by a marshal. All moneys received and disbursed through that account or on deposit shall be properly accounted for under those procedures the Controller may deem necessary, and shall be subject to periodic settlement with the county auditor as required by law.

SEC. 68. Section 68546 of the Government Code is amended to read:

68546. If the Chairman of the Judicial Council assigns a judge of a municipal or justice court in a county to sit on the superior court of the same county, the presiding judge of the municipal or justice court may with the consent of the presiding judge of the superior court also assign the court reporter, deputy clerk and deputy marshal, or any of them, of the municipal or justice court from which that judge is assigned to act as court reporter, deputy clerk and deputy sheriff, respectively, for the superior court during the period for which the judge is assigned. During the period for which the court reporter, deputy clerk, or deputy marshal is assigned, they shall receive the same salary as a court reporter, deputy clerk, or deputy sheriff, respectively, for the superior court. If there be no presiding judge, the senior or sole judge may make or consent to the assignment of the attachés. This section shall not apply to the assignment of the deputy clerk or deputy marshal in any county until the board of supervisors by ordinance has adopted its provisions. An ordinance is not required where the deputy clerk and deputy marshal consent to serve as part of their regular duties without additional compensation.

SEC. 69. Section 68726 of the Government Code is amended to read:

68726. It shall be the duty of the sheriffs and marshals in the several counties, upon request of the commission or its authorized representative, to serve process and execute all lawful orders of the commission.

SEC. 70. Section 71001 of the Government Code is amended to read:

71001. All laws relating to the municipal and justices' courts existing prior to November 7, 1950, and to the judges, marshals, and other officers or attaches of the courts, not inconsistent with the

Municipal and Justice Court Act of 1949, or the provisions of law succeeding that act, apply to the municipal and justice courts provided for in the Municipal and Justice Court Act of 1949, or the provisions of law succeeding that act, and to the judges, marshals, and other officers or attachés of the courts until altered by the Legislature.

SEC. 71. Section 71085 of the Government Code is amended to read:

71085. (a) The clerk, or chief clerical officer by whatever name known, the marshal, or similar official, their deputies and attachés, and all other officers or employees of each court wholly or partly superseded by a municipal or justice court, shall become the clerk, the marshal, their deputies and attachés, and officers or employees of that municipal or justice court upon its organization, so far as those positions are provided by law. If no provision is made by law for officers and employees of a municipal court, there shall be the officers and employees for that court specified in subdivision (b). They shall receive compensation for their services fixed by the judge, if there are one or more other municipal courts in the county in which the court is established, at a rate comparable to but not greater than that provided by law for comparable officers and employees in any other municipal court in the county. If there is no other municipal court in the county in which the court is established, the officers and employees of the court shall receive the compensation for their services fixed by the judge within the ranges provided below until express provision has been made for officers and employees of the court, except that if any officer or employee was receiving compensation in a superseded justice court greater than the maximum range provided in this section for a comparable position in the municipal court, he or she shall continue to receive that compensation until express provision has been made by law for officers and employees of that municipal court. The interim compensation fixed by the judge shall be effective only until the 61st day after final adjournment of the next succeeding regular session of the Legislature.

(b) There shall be one clerk of the court who shall receive a monthly salary in the following range: six hundred dollars ($600), six hundred fifty dollars ($650), seven hundred dollars ($700).

The clerk may appoint with the approval of the judge as many deputies as may be necessary who shall receive a monthly salary in the following range: three hundred fifty dollars ($350), three hundred seventy-five dollars ($375), four hundred dollars ($400), four hundred twenty-five dollars ($425), four hundred fifty dollars ($450), four hundred seventy-five dollars ($475), five hundred dollars ($500).

There shall be one marshal. His or her monthly salary shall be in the following range: five hundred dollars ($500), five hundred fifty dollars ($550), six hundred dollars ($600).

The marshal may appoint with the approval of the judge as many deputy marshals as may be necessary. The monthly salary of a deputy marshal shall be in the following range: four hundred dollars ($400), four hundred fifty dollars ($450), five hundred dollars ($500), five hundred fifty dollars ($550).

The judge of an existing court who does not succeed to judicial office shall be deemed to be a clerk or chief clerical officer within the meaning of this section.

SEC. 72. Section 71088 of the Government Code is amended to read:

71088. Any police officer appointed and acting as bailiff in any court superseded by a municipal or justice court shall be deemed to be appointed ex officio a deputy marshal subject to the same conditions under which he or she was first appointed, without prejudice to his or her rights by virtue of his employment as police officer.

SEC. 73. Section 71090 of the Government Code is repealed.

SEC. 74. Section 71091 of the Government Code is amended to read:

71091. If it appears that two or more clerks, marshals, deputies, and other officers or attachés are equally entitled by virtue of the office held in any superseded court, to any one office in the municipal or justice court, the judge, a majority of the judges, or the judge senior in service when there is an equal division of the judges shall determine which person is entitled to the office in which the conflict exists, unless the office in which the conflict exists is that of constable of a justice court, in which case the board of supervisors of the county in which the court is situated shall determine which person is entitled to the office.

SEC. 75. Section 71140 of the Government Code is amended to read:

71140. The judges of a municipal court and the judges of a justice court shall be residents eligible to vote in the judicial district or city and county in which they are elected or appointed for a period of at least 54 days prior to the date of their election or appointment. This requirement shall not affect the right of any person to automatically succeed to an office or position pursuant to Sections 71080 to 71083, inclusive, and Sections 71085 to 71090, inclusive, nor the right of any person to be constable in any county governed by a freeholders' charter which provides that constables shall be appointed by the sheriff, or shall be ex officio deputy sheriffs.

This requirement shall not apply to a judge of a municipal court for the rest of his or her unexpired term and for one successive term of office for which he or she is subsequently reelected when:

(a) He has succeeded to office under the provisions of Section 71083 and his or her residence is not in the annexed district.

(b) Part of a municipal court district is annexed to another municipal court district and the judge of the original district lives in the part that is annexed.

SEC. 76. Section 71220 of the Government Code is amended to read:

71220. The salaries of the judges, clerks, marshals, and other officers or attachés of each municipal court and justice court shall be paid by the county in which the court is situated out of the salary fund or, if there is none, out of the general fund of the county.

SEC. 77. Section 71221 of the Government Code is amended to read:

71221. Except as otherwise provided in this section, the clerk of each municipal and justice court, or if there is none, the judge of the court, shall certify monthly to the county auditor a list showing the amount of compensation of the judges, clerks, and other officers and attachés of that court, except marshals. The marshal of a municipal court shall certify monthly to the county auditor a list showing the amount of compensation of the marshals of the court.

The clerk of the municipal court in the City and County of San Francisco shall certify to the county auditor a list showing the amount of compensation of the judges, clerks, and other officers and attachés of that court, except marshals, in the same manner and for the same period as for departments and employees of the City and County of San Francisco, and the auditor is authorized to pay that compensation in the same manner and for the same period as for employees of the City and County of San Francisco.

SEC. 78. Section 71264 of the Government Code is amended to read:

71264. Whenever required, marshals shall attend the municipal and justice courts of the district in which they are appointed or elected to act; provided, however, that a marshal shall attend a civil action only if the presiding judge or his or her designee makes a determination that the attendance of the marshal at that action is necessary for reasons of public safety. Within their counties they shall execute, serve, and return all writs, processes, and notices directed or delivered to them by municipal and justice courts or by other competent authority. A marshal of a municipal court who is authorized by law to appoint not more than four deputies, shall not be required to travel outside of his or her district to serve any civil process or notice. With respect to proceedings in the municipal or justice court, the marshal of the court has all the powers and duties imposed by law upon the sheriff with respect to proceedings in the superior court. In a county of the third class, the marshal shall attend all superior courts held within the county, subject to the restrictions of this section or Section 26603.

SEC. 79. Section 71265 of the Government Code is amended to read:

71265. All provisions of Government Code Sections 26600–26602, 26604, 26606–26608.1, 26609, 26611, 26660–26664, 26680, and Code of Civil Procedure Sections 262, 262.1, 262.2, 262.3, 262.4, and 262.5, apply to marshals and govern their powers, duties and liabilities.

SEC. 80. Section 71266 of the Government Code is amended to read:

71266. Marshals shall charge and collect for their services the fees, expenses and mileage allowed by law to sheriffs. They shall pay those fees into the county treasury on or before the fifth day of each month, except where those fees, expenses and mileage or a percentage of them are allowed those officers.

SEC. 81. Section 71267 of the Government Code is amended to read:

71267. The board of supervisors may establish a revolving fund for the use of the clerk or marshal of any municipal or justice court within the county pursuant to Sections 29320 to 29331, inclusive.

SEC. 82. Section 71600 of the Government Code is amended to read:

71600. The board of supervisors shall prescribe the number, qualifications, and compensation of those clerks, deputies, and other attachés of justice courts that public convenience requires, notwithstanding the provisions of any charter. In any chartered county all those matters shall be regulated in the manner, if any, set forth in the charter with respect to township officers and employees.

SEC. 83. Section 71602 of the Government Code is repealed.
SEC. 84. Section 71603 of the Government Code is repealed.
SEC. 85. Section 71603.2 of the Government Code is repealed.
SEC. 86. Section 71603.5 of the Government Code is repealed.
SEC. 87. Section 71603.6 of the Government Code is repealed.
SEC. 88. Section 71604 of the Government Code is repealed.
SEC. 89. Section 71604.1 of the Government Code is repealed.

SEC. 90. Section 71609 of the Government Code is amended to read:

71609. A judge of a justice court shall receive from the sheriff of his or her county, all money collected on any process or order issued from the court, and shall pay it, and all money paid to the court in his or her official capacity, over to the parties entitled or authorized to receive it, without delay.

SEC. 91. Section 73399.1 of the Government Code is amended to read:

73399.1. The clerks and other attachés of the justice courts in Kings County shall succeed as authorized by law to the equivalent municipal court positions.

SEC. 92. Section 73685 of the Government Code is amended to read:

sheriff shall be ex officio marshal and the sheriff's designated deputies shall be ex officio deputy marshals of the court. The sheriff shall charge and collect for the sheriff's services rendered in the capacity of marshal of the court the fees allowed by law to sheriffs and shall pay the same into the county treasury for the use and benefit of the county.

SEC. 93. Section 495.3 of the Harbors and Navigation Code is amended to read:

495.3. The writ shall be directed to the sheriff of the county within which the vessel lies, or the marshal of the court, and direct him or her to attach the vessel, with its tackle, appurtenances, appliances, furnishings, and furniture, and keep the same in his or her custody until discharged in due course of law.

SEC. 94. Section 495.4 of the Harbors and Navigation Code is amended to read:

495.4. The sheriff or marshal to whom the writ is directed and delivered shall execute it without delay, and shall attach and keep in his or her custody the vessel, named therein, with its tackle, appurtenances, appliances, furnishings, and furniture, until discharged in due course of law; but the sheriff or marshal is not authorized by any such writ to interfere with the discharge of any merchandise on board of the vessel or with the removal of any trunks or other property of passengers, or of the captain, mate, seamen, steward, cook, or other persons employed on board.

SEC. 95. Section 495.6 of the Harbors and Navigation Code is amended to read:

495.6. After the attachment is levied, the owner, or the master, agent, or consignee of the vessel, may, in behalf of the owner, have the attachment discharged, upon filing with the court, subject to the provisions of Section 489.060 of the Code of Civil Procedure, an undertaking in an amount sufficient to satisfy the demand in the suit, besides costs. Upon receiving notice of the filing of the undertaking with the court, the sheriff or marshal shall restore to the owner, or the master, agent, or consignee of the owner, the vessel attached.

SEC. 96. Section 495.8 of the Harbors and Navigation Code is amended to read:

495.8. If the attachment is not discharged, and a judgment is recovered in the action in favor of the plaintiff, and an execution is issued thereon, the sheriff or marshal shall sell at public auction, after publication of notice pursuant to Section 6062 of the Government Code, the vessel, with its tackle, appurtenances, appliances, furnishings, and furniture, or such interest therein as may be necessary, and shall apply the proceeds of the sale as follows:

(a) When the action is brought for demands other than the wages of mariners, boatmen, and others employed in the service of the vessel sold, to the payment of the amount of those wages, as specified in the execution.

(b) To the payment of the judgment and costs, including his or her fees.

The sheriff or marshal shall pay any balance remaining to the owner, or to the master, agent, or consignee who may have appeared on behalf of the owner, or if there is no appearance, then into court, subject to the claim of any party or parties legally entitled thereto.

SEC. 97. Section 495.9 of the Harbors and Navigation Code is amended to read:

495.9. Any mariner, boatman, or other person employed in the service of the vessel attached, who may wish to assert his or her claim for wages against the vessel, the attachments being issued for other demands than those wages, may file an affidavit of his or her claim, setting forth the amount and the particular service rendered, with the clerk of the court; and thereafter no attachment can be discharged upon filing an undertaking, unless the amount of the claim, or the amount determined as provided in Section 496, is covered thereby, in addition to the other requirements; and any execution issued against that vessel, upon judgment recovered thereafter shall direct the application of the proceeds of any sale:

(a) To the payment of the amount of such claims filed, or the amount determined, as provided in Section 496, which amount the clerk shall insert in the writ.

(b) To the payment of the judgment and costs, and sheriff's or marshal's fees, and shall direct the payment of any balance to the owner, master, or consignee, who may have appeared in the action; but if no appearance by them is made therein, it shall direct a deposit of the balance in court.

SEC. 98. Section 497 of the Harbors and Navigation Code is amended to read:

497. The notice of sale published by the sheriff or marshal must contain a statement of the measurement and tonnage of the vessel and a general description of her condition.

SEC. 99. Section 40275 of the Health and Safety Code is amended to read:

40275. The bay district treasury shall be in the custody of the county treasurer of a county within the bay district designated by the bay district board, and that treasurer shall be the bay district treasurer.

SEC. 100. Section 41210 of the Health and Safety Code is amended to read:

41210. (a) There is hereby created the Mojave Desert Air Quality Management District.

(b) The boundaries of the Mojave Desert district shall include all of the County of San Bernardino and the County of Riverside that is not included within the boundaries of the south coast district, and any other area included pursuant to subdivision (c).

(c) The Mojave Desert district board may, by resolution, include in the Mojave Desert district any other area upon receipt of a resolution from the district that currently includes the area requesting inclusion and specifying the area to be included. All territory included within the Mojave Desert district shall be contiguous.

SEC. 101. Section 41220 of the Health and Safety Code is amended to read:

41220. (a) The Mojave Desert district shall be governed by a district board composed of the following members:

(1) The members of the San Bernardino County Board of Supervisors who represent the first and third supervisorial districts of the county, or who, after reapportionment affecting the county supervisorial districts, represent any supervisorial district of the county that lies in whole or in part within the Mojave Desert district.

(2) One member of the city council of each incorporated city within the Mojave Desert district, who shall be appointed by the city council.

(3) One public member who shall be appointed by a majority of the Mojave Desert district governing board for a term of two years and who shall be a resident of an incorporated city or a supervisorial district that lies in whole or in part within the Mojave Desert district.

(4) Upon the incorporation of any new city within the boundaries of the Mojave Desert district, the city council of that city shall appoint one member of the city council to the Mojave Desert district board.

(5) If a district submits a resolution of inclusion pursuant to subdivision (c) of Section 41210, one or more members of the county board of supervisors or of a city council from the area to be included shall be appointed to the Mojave Desert district board, pursuant to agreement between the county board of supervisors or the city council, or both, and the Mojave Desert district board.

(6) At the time of the appointment of a member of the city council of a newly incorporated city to the Mojave Desert district board, as specified in paragraph (4), or upon making an agreement to appoint a member from an area included in the Mojave Desert district pursuant to paragraph (5), the Mojave Desert district board may revise the remaining membership of the Mojave Desert district board, as previously constituted, by adding or removing one or more members of the board of supervisors of a county having territory in the district, adding or removing one or more members of the city councils of previously incorporated cities within the district, or both.

(b) The city council or a board of supervisors appointing a member may appoint an alternate who shall be an elected official and who shall be a resident of an incorporated city or a supervisorial district that lies in whole or in part within the Mojave Desert district.

(c) As used in this section, "city" means any city, town, or municipal corporation incorporated under the laws of this state.

SEC. 102. Section 25 of the Labor Code is amended to read:

25. "Sheriff" includes "marshal."

SEC. 103. Section 101 of the Labor Code is amended to read:

101. No court costs of any nature shall be payable by the division, in any civil action to which the division is a party. Any sheriff or marshal requested by the Labor Commissioner or a deputy or representative of the Labor Commissioner shall serve the summons in the action upon any person within the jurisdiction of the sheriff or marshal or levy under a writ of attachment or execution in the action upon the property of any defendant without cost to the division except for keeper's fees, service fees, and storage charges.

SEC. 104. Section 102 of the Labor Code is amended to read:

102. The sheriff or marshal shall specify when the summons or process is returned, what costs he or she would ordinarily have been entitled to for such service, and those costs and the other regular court costs that would have accrued if the action was not by the Labor Commissioner shall be made a part of any judgment recovered by the Labor Commissioner and shall be paid by the Labor Commissioner if sufficient money is collected over and above the wages, penalties, or demands actually due the claimants.

SEC. 105. Section 211 of the Labor Code is amended to read:

211. When action to recover such penalties is brought, no court costs shall be payable by the state or the division. Any sheriff or marshal who serves the summons in the action upon any defendant within his or her jurisdiction shall do so without cost to the division. The sheriff or marshal shall specify in the return what costs he or she would ordinarily have been entitled to for such service, and those costs and the other regular court costs that would have accrued were the action not on behalf of the state shall be made a part of any judgment recovered by the plaintiff and shall be paid out of the first money recovered on the judgment. Several causes of action for the penalties may be united in the same action without being separately stated. A demand is a prerequisite to the bringing of any action under this section or Section 210. The division on behalf of the state may accept and receipt for any penalties so paid, with or without suit.

SEC. 106. Section 3352 of the Labor Code is amended to read:

3352. "Employee" excludes the following:

(a) Any person defined in subdivision (d) of Section 3351 who is employed by his or her parent, spouse, or child.

(b) Any person performing services in return for aid or sustenance only, received from any religious, charitable, or relief organization.

(c) Any person holding an appointment as deputy clerk or deputy sheriff appointed for his or her own convenience, and who receives no compensation from the county or municipal corporation or from the citizens thereof for his or her services as the deputy. This exclusion is operative only as to employment by the county or

municipal corporation and does not deprive any person so deputized from recourse against a private person employing him or her for injury occurring in the course of and arising out of the employment.

(d) Any person performing voluntary services at or for a recreational camp, hut, or lodge operated by a nonprofit organization, exempt from federal income tax under Section 101(6) of the Internal Revenue Code, of which he or she or a member of his or her family is a member and who receives no compensation for those services other than meals, lodging, or transportation.

(e) Any person performing voluntary service as a ski patrolman who receives no compensation for those services other than meals or lodging or the use of ski tow or ski lift facilities.

(f) Any person employed by a ski lift operator to work at a snow ski area who is relieved of and not performing any prescribed duties, while participating in recreational activities on his or her own initiative.

(g) Any person, other than a regular employee, participating in sports or athletics who receives no compensation for the participation other than the use of athletic equipment, uniforms, transportation, travel, meals, lodgings, or other expenses incidental thereto.

(h) Any person defined in subdivision (d) of Section 3351 who was employed by the employer to be held liable for less than 52 hours during the 90 calendar days immediately preceding the date of the injury for injuries, as defined in Section 5411, or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of the disease or injury for injuries, as defined in Section 5412, or who earned less than one hundred dollars ($100) in wages from the employer during the 90 calendar days immediately preceding the date of the injury for injuries, as defined in Section 5411, or during the 90 calendar days immediately preceding the date of the last employment in an occupation exposing the employee to the hazards of the disease or injury for injuries, as defined in Section 5412.

(i) Any person performing voluntary service for a public agency or a private, nonprofit organization who receives no remuneration for the services other than meals, transportation, lodging, or reimbursement for incidental expenses.

(j) Any person, other than a regular employee, performing officiating services relating to amateur sporting events sponsored by any public agency or private, nonprofit organization, who receives no remuneration for these services other than a stipend for each day of service no greater than the amount established by the State Board of Control as a per diem expense for employees or officers of the state pursuant to Section 13920 of the Government Code. The stipend shall be presumed to cover incidental expenses involved in officiating,

including, but not limited to, meals, transportation, lodging, rule books and courses, uniforms, and appropriate equipment.

(k) Any student participating as an athlete in amateur sporting events sponsored by any public agency, public or private nonprofit college, university or school, who receives no remuneration for the participation other than the use of athletic equipment, uniforms, transportation, travel, meals, lodgings, scholarships, grants-in-aid, or other expenses incidental thereto.

(*l*) Any law enforcement officer who is regularly employed by a local or state law enforcement agency in an adjoining state and who is deputized to work under the supervision of a California peace officer pursuant to paragraph (4) of subdivision (a) of Section 832.6 of the Penal Code.

(m) Any law enforcement officer who is regularly employed by the Oregon State Police, the Nevada Department of Motor Vehicles and Public Safety, or the Arizona Department of Public Safety and who is acting as a peace officer in this state pursuant to subdivision (a) of Section 830.32 of the Penal Code.

(n) Any person, other than a regular employee, performing services as a sports official for an entity sponsoring an intercollegiate or interscholastic sports event, or any person performing services as a sports official for a public agency, public entity, or a private nonprofit organization, which public agency, public entity, or private nonprofit organization sponsors an amateur sports event. For purposes of this subdivision, "sports official" includes an umpire, referee, judge, scorekeeper, timekeeper, or other person who is a neutral participant in a sports event.

SEC. 107. Section 463 of the Military and Veterans Code is amended to read:

463. Military courts may issue all process and mandates, including writs and warrants, necessary and proper to carry into full effect the powers vested in those courts. Process or mandates may be directed to the sheriff of any county, any peace officer, the police of any city and the marshals of any town or city, or to any officer or enlisted man or woman appointed by the court to serve or execute process or mandates. All officers to whom process or mandates are directed shall execute the process or mandates and make return of their acts thereunder according to the requirements thereof.

SEC. 108. Section 467 of the Military and Veterans Code is amended to read:

467. For the purpose of collecting fines or penalties imposed by a court-martial, the president of any general or special court-martial and the summary court officer of any summary court shall make a list of all fines and penalties and of the persons against whom they have been imposed, and may thereafter issue a warrant under his or her hand directed to any sheriff or marshal of the county, commanding him or her to levy and collect the fines and penalties, together with

the costs, upon and out of the property of the person against whom the fine or penalty is imposed. The warrant shall be executed and renewed in the same manner as executions from the justices' courts.

All fines collected under this section or imposed and collected under Section 450.1 shall be paid by the officer collecting them to the commanding officer of the organization of which the person fined is or was a member and shall be deposited by the commanding officer into the General Fund.

SEC. 109. Section 97 of the Penal Code is amended to read:

97. Every judge of a justice court who purchases or is interested in the purchase of any judgment or part thereof on the docket of, or on any docket in possession of that judge, is guilty of a misdemeanor.

SEC. 110. Section 335 of the Penal Code is amended to read:

335. Every district attorney, sheriff, or police officer must inform against and diligently prosecute persons whom they have reasonable cause to believe offenders against the provisions of this chapter, and every officer refusing or neglecting so to do, is guilty of a misdemeanor.

SEC. 111. Section 597d of the Penal Code is amended to read:

597d. Any sheriff, police, or peace officer, or officer qualified as provided in Section 607f of the Civil Code, may enter any place, building, or tenement, where there is an exhibition of the fighting of birds or animals, or where preparations are being made for such an exhibition, and, without a warrant, arrest all persons present.

SEC. 112. Section 599a of the Penal Code is amended to read:

599a. When complaint is made, on oath, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes that any provision of law relating to, or in any way affecting, dumb animals or birds, is being, or is about to be violated in any particular building or place, the magistrate must issue and deliver immediately a warrant directed to any sheriff, police or peace officer or officer of any incorporated association qualified as provided by law, authorizing him to enter and search that building or place, and to arrest any person there present violating, or attempting to violate, any law relating to, or in any way affecting, dumb animals or birds, and to bring that person before some court or magistrate of competent jurisdiction, within the city, city and county, or judicial district within which the offense has been committed or attempted, to be dealt with according to law, and the attempt must be held to be a violation of Section 597.

SEC. 113. Section 703 of the Penal Code is amended to read:

703. If it appears from the depositions that there is just reason to fear the commission of the offense threatened, by the person so informed against, the magistrate must issue a warrant, directed generally to the sheriff of the county, or any marshal, or policeman in the state, reciting the substance of the information, and

privilege indicating consent to the disclosure, including failure to claim the privilege in any proceeding in which the holder has the legal standing and opportunity to claim the privilege.

(b) Where two or more persons are joint holders of a privilege provided by Section 954 (lawyer-client privilege), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1035.8 (sexual assault counselor-victim privilege), or 1037.5 (domestic violence counselor-victim privilege), a waiver of the right of a particular joint holder of the privilege to claim the privilege does not affect the right of another joint holder to claim the privilege. In the case of the privilege provided by Section 980 (privilege for confidential marital communications), a waiver of the right of one spouse to claim the privilege does not affect the right of the other spouse to claim the privilege.

(c) A disclosure that is itself privileged is not a waiver of any privilege.

(d) A disclosure in confidence of a communication that is protected by a privilege provided by Section 954 (lawyer-client privilege), 994 (physician-patient privilege), 1014 (psychotherapist-patient privilege), 1035.8 (sexual assault counselor-victim privilege), or 1037.5 (domestic violence counselor-victim privilege), when disclosure is reasonably necessary for the accomplishment of the purpose for which the lawyer, physician, psychotherapist, sexual assault counselor, or domestic violence counselor was consulted, is not a waiver of the privilege.

SEC. 2. Section 3304 of the Government Code is amended to read:

3304. (a) No public safety officer shall be subjected to punitive action, or denied promotion, or be threatened with any such treatment, because of the lawful exercise of the rights granted under this chapter, or the exercise of any rights under any existing administrative grievance procedure.

Nothing in this section shall preclude a head of an agency from ordering a public safety officer to cooperate with other agencies involved in criminal investigations. If an officer fails to comply with such an order, the agency may officially charge him or her with insubordination.

(b) No punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by any public agency against any public safety officer who has successfully completed the probationary period that may be required by his or her employing agency without providing the public safety officer with an opportunity for administrative appeal.

(c) No chief of police may be removed by a public agency, or appointing authority, without providing the chief of police with written notice and the reason or reasons therefor and an opportunity for administrative appeal.

For purposes of this subdivision, the removal of a chief of police by a public agency or appointing authority, for the purpose of implementing the goals or policies, or both, of the public agency or appointing authority, for reasons including, but not limited to, incompatibility of management styles or as a result of a change in administration, shall be sufficient to constitute "reason or reasons."

Nothing in this subdivision shall be construed to create a property interest, where one does not exist by rule or law, in the job of Chief of Police.

(d) Except as provided in this subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. This one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 1998. In the event that the public agency determines that discipline may be taken, it shall complete its investigation and notify the public safety officer of its proposed disciplinary action within that year, except in any of the following circumstances:

(1) If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.

(2) If the public safety officer waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.

(3) If the investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.

(4) If the investigation involves more than one employee and requires a reasonable extension.

(5) If the investigation involves an employee who is incapacitated or otherwise unavailable.

(6) If the investigation involves a matter in civil litigation where the public safety officer is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.

(7) If the investigation involves a matter in criminal litigation where the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.

(8) If the investigation involves an allegation of workers' compensation fraud on the part of the public safety officer.

(e) Where a predisciplinary response or grievance procedure is required or utilized, the time for this response or procedure shall not be governed or limited by this chapter.

(f) If, after investigation and any predisciplinary response or procedure, the public agency decides to impose discipline, the public agency shall notify the public safety officer in writing of its decision to impose discipline, including the date that the discipline will be imposed, within 30 days of its decision, except if the public safety officer is unavailable for discipline.

(g) Notwithstanding the one-year time period specified in subdivision (d), an investigation may be reopened against a public safety officer if both of the following circumstances exist:

(1) Significant new evidence has been discovered that is likely to affect the outcome of the investigation.

(2) One of the following conditions exist:

(A) The evidence could not reasonably have been discovered in the normal course of investigation without resorting to extraordinary measures by the agency.

(B) The evidence resulted from the public safety officer's predisciplinary response or procedure.

(h) For those members listed in subdivision (a) of Section 830.2 of the Penal Code, the 30-day time period provided for in subdivision (f) shall not commence with the service of a preliminary notice of adverse action, should the public agency elect to provide the public safety officer with such a notice.

SEC. 3. Section 68115 of the Government Code is amended to read:

68115. When war, insurrection, pestilence, or other public calamity, or the danger thereof, or the destruction of or danger to the building appointed for holding the court, renders it necessary, or when a large influx of criminal cases resulting from a large number of arrests within a short period of time threatens the orderly operation of a superior court location or locations within a county, the presiding judge may request and the Chair of the Judicial Council may, notwithstanding any other provision of law, by order authorize the court to do one or more of the following:

(a) Hold sessions anywhere within the county.

(b) Transfer civil cases pending trial in the court to a superior court in an adjacent county. No transfer may be made pursuant to this subdivision except with the consent of all parties to the case or upon a showing by a party that extreme or undue hardship would result unless the case is transferred for trial. Any civil case so transferred shall be

integrated into the existing caseload of the court to which it is transferred pursuant to rules to be provided by the Judicial Council.

(c) Declare that a date or dates on which an emergency condition, as described in this section, substantially interfered with the public's ability to file papers in a court facility or facilities be deemed a holiday for purposes of computing the time for filing papers with the court under Sections 12 and 12a of the Code of Civil Procedure. This subdivision shall apply to the fewest days necessary under the circumstances of the emergency, as determined by the Chair of the Judicial Council.

(d) Declare that a date on which an emergency condition, as described in this section, prevented the court from conducting proceedings governed by Section 825 of the Penal Code, or Section 313, 315, 631, 632, 637, or 657 of the Welfare and Institutions Code, be deemed a holiday for purposes of computing time under those statutes. This subdivision shall apply to the fewest days necessary under the circumstances of the emergency, as determined by the Chair of the Judicial Council.

(e) Within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Section 825 of the Penal Code within which a defendant charged with a felony offense shall be taken before a magistrate from 48 hours to not more than seven days, with the number of days to be designated by the Chair of the Judicial Council. This authorization shall be effective for 30 days unless it is extended by a new request and a new order.

(f) Extend the time period provided in Section 859b of the Penal Code for the holding of a preliminary examination from 10 court days to not more than 15 days.

(g) Extend the time period provided in Section 1382 of the Penal Code within which the trial must be held by not more than 30 days, but the trial of a defendant in custody whose time is so extended shall be given precedence over all other cases.

(h) Within the affected area of a county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Sections 313, 315, 632, and 637 of the Welfare and Institutions Code within which a minor shall be given a detention hearing, with the number of days to be designated by the Chair of the Judicial Council. The extension of time shall be for the shortest period of time necessary under the circumstances of the emergency, but in no event shall the time period within which a detention hearing must be given be extended to more than

seven days. This authorization shall be effective for 30 days unless it is extended by a new request and a new order. This subdivision shall apply only where the minor has been charged with a felony.

(i) Within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Sections 334 and 657 of the Welfare and Institutions Code within which an adjudication on a juvenile court petition shall be held by not more than 15 days, with the number of days to be designated by the Chair of the Judicial Council. This authorization shall be effective for 30 days unless it is extended by a new request and a new order. This subdivision shall apply only where the minor has been charged with a felony.

SEC. 4. Section 11100 of the Health and Safety Code is amended to read:

11100. (a) Any manufacturer, wholesaler, retailer, or other person or entity in this state that sells, transfers, or otherwise furnishes any of the following substances to any person or entity in this state or any other state shall submit a report to the Department of Justice of all of those transactions:

(1) Phenyl-2-propanone.
(2) Methylamine.
(3) Ethylamine.
(4) D-lysergic acid.
(5) Ergotamine tartrate.
(6) Diethyl malonate.
(7) Malonic acid.
(8) Ethyl malonate.
(9) Barbituric acid.
(10) Piperidine.
(11) N-acetylanthranilic acid.
(12) Pyrrolidine.
(13) Phenylacetic acid.
(14) Anthranilic acid.
(15) Morpholine.
(16) Ephedrine.
(17) Pseudoephedrine.
(18) Norpseudoephedrine.
(19) Phenylpropanolamine.
(20) Propionic anhydride.
(21) Isosafrole.
(22) Safrole.
(23) Piperonal.

(24) Thionylchloride.
(25) Benzyl cyanide.
(26) Ergonovine maleate.
(27) N-methylephedrine.
(28) N-ethylephedrine.
(29) N-methylpseudoephedrine.
(30) N-ethylpseudoephedrine.
(31) Chloroephedrine.
(32) Chloropseudoephedrine.
(33) Hydriodic acid.
(34) Gamma-butyrolactone, including butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone with Chemical Abstract Service number (96-48-0).
(35) 1,4-butanediol, including butanediol; butane-1,4-diol; 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene glycol; tetramethylene glycol; tetramethylene 1,4-diol with Chemical Abstract Service number (110-63-4).
(36) Red phosphorous, including white phosphorous, hypophosphorous acid and its salts, ammonium hypophosphite, calcium hypophosphite, iron hypophosphite, potassium hypophosphite, manganese hypophosphite, magnesium hypophosphite, and sodium hypophosphite.
(37) Any of the substances listed by the Department of Justice in regulations promulgated pursuant to subdivision (b).

(b) The Department of Justice may adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that add substances to subdivision (a) if the substance is a precursor to a controlled substance and delete substances from subdivision (a). However, no regulation adding or deleting a substance shall have any effect beyond March 1 of the year following the calendar year during which the regulation was adopted.

(c) (1) (A) Any manufacturer, wholesaler, retailer, or other person or entity in this state, prior to selling, transferring, or otherwise furnishing any substance specified in subdivision (a) to any person or business entity in this state or any other state, shall require (A) a letter of authorization from that person or business entity that includes the currently valid business license number or federal Drug Enforcement Administration (DEA) registration number, the address of the business, and a full description of how the substance is to be used, and (B) proper

identification from the purchaser. The manufacturer, wholesaler, retailer, or other person or entity in this state shall retain this information in a readily available manner for three years. The requirement for a full description of how the substance is to be used does not require the person or business entity to reveal their chemical processes that are typically considered trade secrets and proprietary information.

(B) For the purposes of this paragraph, "proper identification" for in-state or out-of-state purchasers includes two or more of the following: federal tax identification number; seller's permit identification number; city or county business license number; license issued by the California Department of Health Services; registration number issued by the Federal Drug Enforcement Administration; precursor business permit number issued by the Bureau of Narcotic Enforcement of the California Department of Justice; motor vehicle operator's license; or other identification issued by a state.

(2) (A) Any manufacturer, wholesaler, retailer, or other person or entity in this state that exports a substance specified in subdivision (a) to any person or business entity located in a foreign country shall, on or before the date of exportation, submit to the Department of Justice a notification of that transaction, which notification shall include the name and quantity of the substance to be exported and the name, address, and, if assigned by the foreign country or subdivision thereof, business identification number of the person or business entity located in a foreign country importing the substance.

(B) The department may authorize the submission of the notification on a monthly basis with respect to repeated, regular transactions between an exporter and an importer involving a substance specified in subdivision (a), if the department determines that a pattern of regular supply of the substance exists between the exporter and importer and that the importer has established a record of utilization of the substance for lawful purposes.

(d) (1) Any manufacturer, wholesaler, retailer, or other person or entity in this state that sells, transfers, or otherwise furnishes a substance specified in subdivision (a) to a person or business entity in this state or any other state shall, not less than 21 days prior to delivery of the substance, submit a report of the transaction, which includes the identification information specified in subdivision (c), to the Department of Justice. The Department of Justice may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the substance or substances if the Department of Justice determines that a pattern of regular supply of the substance or substances exists between the manufacturer, wholesaler, retailer, or other person or entity that sells,

transfers, or otherwise furnishes the substance or substances and the recipient of the substance or substances, and the recipient has established a record of utilization of the substance or substances for lawful purposes.

(2) The person selling, transferring, or otherwise furnishing any substance specified in subdivision (a) shall affix his or her signature or otherwise identify himself or herself as a witness to the identification of the purchaser or purchasing individual, and shall, if a common carrier is used, maintain a manifest of the delivery to the purchaser for three years.

(e) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who administers or furnishes a substance to his or her patients.

(3) Any manufacturer or wholesaler licensed by the California State Board of Pharmacy that sells, transfers, or otherwise furnishes a substance to a licensed pharmacy, physician, dentist, podiatrist, veterinarian, or retail distributor as defined in subdivision (h), provided that the manufacturer or wholesaler submits records of any suspicious sales or transfers as determined by the Department of Justice.

(4) Any analytical research facility that is registered with the federal Drug Enforcement Administration of the United States Department of Justice.

(5) (A) Any sale, transfer, furnishing, or receipt of any product that contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and which is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or regulations adopted thereunder. However, this section shall apply to preparations in solid or liquid dosage form, except pediatric liquid forms, as defined, containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine where the individual transaction involves more than three packages or nine grams of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.

(B) Any ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine product subsequently removed from exemption pursuant to Section 814 of Title 21 of the United States Code shall similarly no longer be exempt from any state reporting or permitting requirement, unless otherwise reinstated pursuant to subdivision (d) or (e) of Section 814 of Title 21 of the United States Code as an exempt product.

(6) Any transfer of a substance specified in subdivision (a) for purposes of lawful disposal as waste.

(f) (1) Any person specified in subdivision (a) or (d) who does not submit a report as required by that subdivision or who knowingly submits a report with false or fictitious information shall be punished by imprisonment in a county jail not exceeding six months, by a fine not exceeding five thousand dollars ($5,000), or by both the fine and imprisonment.

(2) Any person specified in subdivision (a) or (d) who has previously been convicted of a violation of paragraph (1) shall, upon a subsequent conviction thereof, be punished by imprisonment in the state prison, or by imprisonment in a county jail not exceeding one year, by a fine not exceeding one hundred thousand dollars ($100,000), or by both the fine and imprisonment.

(g) (1) Except as otherwise provided in subparagraph (A) of paragraph (5) of subdivision (e), it is unlawful for any manufacturer, wholesaler, retailer, or other person to sell, transfer, or otherwise furnish a substance specified in subdivision (a) to a person under 18 years of age.

(2) Except as otherwise provided in subparagraph (A) of paragraph (5) of subdivision (e), it is unlawful for any person under 18 years of age to possess a substance specified in subdivision (a).

(3) Notwithstanding any other law, it is unlawful for any retail distributor to (i) sell in a single transaction more than three packages of a product that he or she knows to contain ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, or (ii) knowingly sell more than nine grams of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine, other than pediatric liquids as defined. Except as otherwise provided in this section, the three package per transaction limitation or nine gram per transaction limitation imposed by this paragraph shall apply to any product that is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), or regulations adopted thereunder, unless exempted from the requirements of the federal Controlled Substances Act by the federal Drug Enforcement Administration pursuant to Section 814 of Title 21 of the United States Code.

(4) (A) A first violation of this subdivision is a misdemeanor.

(B) Any person who has previously been convicted of a violation of this subdivision shall, upon a subsequent conviction thereof, be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars ($10,000), or by both the fine and imprisonment.

(h) For the purposes of this article, the following terms have the following meanings:

(1) "Drug store" is any entity described in Code 5912 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(2) "General merchandise store" is any entity described in Codes 5311 to 5399, inclusive, and Code 5499 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(3) "Grocery store" is any entity described in Code 5411 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(4) "Pediatric liquid" means a nonencapsulated liquid whose unit measure according to product labeling is stated in milligrams, ounces, or other similar measure. In no instance shall the dosage units exceed 15 milligrams of phenylpropanolamine or pseudoephedrine per five milliliters of liquid product, except for liquid products primarily intended for administration to children under two years of age for which the recommended dosage unit does not exceed two milliliters and the total package content does not exceed one fluid ounce.

(5) "Retail distributor" means a grocery store, general merchandise store, drugstore, or other related entity, the activities of which, as a distributor of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products, are limited exclusively to the sale of ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine products for personal use both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales. "Retail distributor" includes an entity that makes a direct sale, but does not include the parent company of that entity if the company is not involved in direct sales regulated by this article.

(6) "Sale for personal use" means the sale in a single transaction to an individual customer for a legitimate medical use of a product containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine in dosages at or below that specified in paragraph (3) of subdivision (g). "Sale for personal use" also includes the sale of those products to employers to be dispensed to employees from first-aid kits or medicine chests.

(i) It is the intent of the Legislature that this section shall preempt all local ordinances or regulations governing the sale by a retail distributor of over-the-counter products containing ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine.

SEC. 5. Section 266h of the Penal Code is amended to read:

266h. (a) Except as provided in subdivision (b), any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, is guilty of pimping, a felony, and shall be punishable by imprisonment in the state prison for three, four, or six years.

(b) Any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, when the prostitute is a minor, is guilty of pimping a minor, a felony, and shall be punishable as follows:

(1) If the person engaged in prostitution is a minor over the age of 16 years, the offense is punishable by imprisonment in the state prison for three, four, or six years.

(2) If the person engaged in prostitution is under 16 years of age, the offense is punishable by imprisonment in the state prison for three, six, or eight years.

SEC. 6. Section 266i of the Penal Code is amended to read:

266i. (a) Except as provided in subdivision (b), any person who does any of the following is guilty of pandering, a felony, and shall be punishable by imprisonment in the state prison for three, four, or six years:

(1) Procures another person for the purpose of prostitution.

(2) By promises, threats, violence, or by any device or scheme, causes, induces, persuades or encourages another person to become a prostitute.

(3) Procures for another person a place as an inmate in a house of prostitution or as an inmate of any place in which prostitution is encouraged or allowed within this state.

(4) By promises, threats, violence or by any device or scheme, causes, induces, persuades or encourages an inmate of a house of prostitution, or any other place in which prostitution is encouraged or allowed, to remain therein as an inmate.

(5) By fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, procures another person for the purpose of prostitution, or to enter any place in which prostitution

is encouraged or allowed within this state, or to come into this state or leave this state for the purpose of prostitution.

(6) Receives or gives, or agrees to receive or give, any money or thing of value for procuring, or attempting to procure, another person for the purpose of prostitution, or to come into this state or leave this state for the purpose of prostitution.

(b) Any person who does any of the acts described in subdivision (a) with another person who is a minor is guilty of pandering, a felony, and shall be punishable as follows:

(1) If the other person is a minor over the age of 16 years, the offense is punishable by imprisonment in the state prison for three, four, or six years.

(2) If the other person is under 16 years of age, the offense is punishable by imprisonment in the state prison for three, six, or eight years.

SEC. 7. Section 290.01 of the Penal Code is amended to read:

290.01. (a) (1) Commencing October 28, 2002, every person required to register under Section 290 who is enrolled as a student of any university, college, community college, or other institution of higher learning, or is, with or without compensation, a full-time or part-time employee of that university, college, community college, or other institution of higher learning, or is carrying on a vocation at the university, college, community college, or other institution of higher learning, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall, in addition to the registration required by Section 290, register with the campus police department within five working days of commencing enrollment or employment at that university, college, community college, or other institution of higher learning, on a form as may be required by the Department of Justice. The terms "employed or carries on a vocation" include employment whether or not financially compensated, volunteered, or performed for government or educational benefit. The registrant shall also notify the campus police department within five working days of ceasing to be enrolled or employed, or ceasing to carry on a vocation, at the university, college, community college, or other institution of higher learning.

(2) For purposes of this section, a campus police department is a police department of the University of California, California State University, or California Community College, established pursuant to Section 72330, 89560, or 92600 of the Education Code, or is a police department staffed with deputized or appointed personnel with peace officer status as provided in Section 830.6 of the Penal Code and is the law enforcement agency with the primary responsibility for

investigating crimes occurring on the college or university campus on which it is located.

(b) If the university, college, community college, or other institution of higher learning has no campus police department, the registrant shall instead register pursuant to subdivision (a) with the police of the city in which the campus is located or the sheriff of the county in which the campus is located if the campus is located in an unincorporated area or in a city that has no police department, on a form as may be required by the Department of Justice. The requirements of subdivisions (a) and (b) are in addition to the requirements of Section 290.

(c) A first violation of this section is a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000). A second violation of this section is a misdemeanor punishable by imprisonment in a county jail for not more than six months, by a fine not to exceed one thousand dollars ($1,000), or by both that imprisonment and fine. A third or subsequent violation of this section is a misdemeanor punishable by imprisonment in a county jail for not more than one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(d) (1) (A) The following information regarding a registered sex offender on campus who is not described in paragraph (1) of subdivision (a) of Section 290.4 may be released to members of the campus community by any campus police department or, if the university, college, community college, or other institution of higher learning has no police department, the police department or sheriff's department with jurisdiction over the campus, and any employees of those agencies, as required by Section 1092(f)(1)(I) of Title 20 of the United States Code:

(i) The offender's full name.
(ii) The offender's known aliases.
(iii) The offender's gender.
(iv) The offender's race.
(v) The offender's physical description.
(vi) The offender's photograph.
(vii) The offender's date of birth.
(viii) Crimes resulting in registration under Section 290.
(ix) The date of last registration or reregistration.

(B) The authority provided in this subdivision is in addition to the authority of a peace officer or law enforcement agency to provide information about a registered sex offender pursuant to subdivisions (a) and (b) of Section 290.45 and subdivision (a) of Section 290.4, and exists notwithstanding subdivision (i) of Section 290, subdivision (c) of Section 290.4, or any other provision of law.

(2) Any law enforcement entity and employees of any law enforcement entity listed in paragraph (1) shall be immune from civil or criminal liability for good faith conduct under this subdivision.

(3) Nothing in this subdivision shall be construed to authorize campus police departments or, if the university, college, community college, or other institution has no police department, the police department or sheriff's department with jurisdiction over the campus, to make disclosures about registrants intended to reach persons beyond the campus community.

(4) (A) Before being provided any information by an agency pursuant to this subdivision, a member of the campus community who requests that information shall sign a statement, on a form provided by the Department of Justice, stating that he or she is not a registered sex offender, that he or she understands the purpose of the release of information is to allow members of the campus community to protect themselves and their children from sex offenders, and that he or she understands it is unlawful to use information obtained pursuant to this subdivision to commit a crime against any registrant or to engage in illegal discrimination or harassment of any registrant. The signed statement shall be maintained in a file in the agency's office for a minimum of five years.

(B) An agency disseminating printed information pursuant to this subdivision shall maintain records of the means and dates of dissemination for a minimum of five years.

(5) For purposes of this subdivision, "campus community" means those persons present at, and those persons regularly frequenting, any place associated with an institution of higher education, including campuses; administrative and educational offices; laboratories; satellite facilities owned or utilized by the institution for educational instruction, business, or institutional events; and public areas contiguous to any campus or facility that are regularly frequented by students, employees, or volunteers of the campus.

SEC. 8. Section 337j of the Penal Code is amended to read:

337j. (a) It is unlawful for any person, as owner, lessee, or employee, whether for hire or not, either solely or in conjunction with others, to do any of the following without having first procured and thereafter maintained in effect all federal, state, and local licenses required by law:

(1) To deal, operate, carry on, conduct, maintain, or expose for play in this state any controlled game.

(2) To receive, directly or indirectly, any compensation or reward or any percentage or share of the revenue, for keeping, running, or carrying on any controlled game.

(3) To manufacture, distribute, or repair any gambling equipment within the boundaries of this state, or to receive, directly or indirectly, any compensation or reward for the manufacture, distribution, or repair of any gambling equipment within the boundaries of this state.

(b) It is unlawful for any person to knowingly permit any controlled game to be conducted, operated, dealt, or carried on in any house or building or other premises that he or she owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law, or by an employee of that person.

(c) It is unlawful for any person to knowingly permit any gambling equipment to be manufactured, stored, or repaired in any house or building or other premises that the person owns or leases, in whole or in part, if that activity is undertaken by a person who is not licensed as required by state law, or by an employee of that person.

(d) Any person who violates, attempts to violate, or conspires to violate this section shall be punished by imprisonment in a county jail for not more than one year, or by a fine of not more than five thousand dollars ($5,000), or by both that imprisonment and fine.

(e) (1) As used in this section, "controlled game" means any poker or Pai Gow game, and any other game played with cards or tiles, or both, and approved by the Division of Gambling Control, and any game of chance, including any gambling device, played for currency, check, credit, or any other thing of value that is not prohibited and made unlawful by statute or local ordinance.

(2) As used in this section, "controlled game" does not include any of the following:

(A) The game of bingo conducted pursuant to Section 326.5.

(B) Parimutuel racing on horse races regulated by the California Horse Racing Board.

(C) Any lottery game conducted by the California State Lottery.

(D) Games played with cards in private homes or residences, in which no person makes money for operating the game, except as a player.

(f) This subdivision is intended to be dispositive of the law relating to the collection of player fees in gambling establishments. A fee may not be calculated as a fraction or percentage of wagers made or winnings earned. The amount of fees charged for all wagers shall be determined prior to the start of play of any hand or round. However, the gambling establishment may waive collection of the fee or portion of the fee in any hand or round of play after the hand or round has begun pursuant to the published rules of the game and the notice provided to the public. The actual collection of the fee may occur before or after the start of play. Ample notice shall be provided to the patrons of gambling establishments relating to the assessment of fees. Flat fees on each wager

may be assessed at different collection rates, but no more than three collection rates may be established per table. However, if the gambling establishment waives its collection fee, this fee does not constitute one of the three collection rates.

SEC. 9. Section 629.61 of the Penal Code is amended to read:

629.61. (a) Whenever an order authorizing an interception is entered, the order shall require a report in writing or otherwise to be made to the Attorney General showing what persons, facilities, places, or any combination of these are to be intercepted pursuant to the application, and the action taken by the judge on each of those applications. The report shall be made at the interval that the order may require, but not more than 10 days after the order was issued, and shall be made by any reasonable and reliable means, as determined by the Attorney General.

(b) The Attorney General may issue regulations prescribing the collection and dissemination of information collected pursuant to this chapter.

(c) The Attorney General shall, upon the request of an individual making an application for an interception order pursuant to this chapter, provide any information known as a result of these reporting requirements and in compliance with paragraph (6) of subdivision (a) of Section 629.50.

SEC. 10. Section 666.7 of the Penal Code is amended to read:

666.7. It is the intent of the Legislature that this section serve merely as a nonsubstantive comparative reference of current sentence enhancement provisions. Nothing in this section shall have any substantive effect on the application of any sentence enhancement contained in any provision of law, including, but not limited to, all of the following: omission of any sentence enhancement provision, inclusion of any obsolete sentence enhancement provision, or inaccurate reference or summary of a sentence enhancement provision.

It is the intent of the Legislature to amend this section as necessary to accurately reflect current sentence enhancement provisions, including the addition of new provisions and the deletion of obsolete provisions.

For the purposes of this section, the term "sentence enhancement" means an additional term of imprisonment in the state prison added to the base term for the underlying offense. A sentence enhancement is imposed because of the nature of the offense at the time the offense was committed or because the defendant suffered a qualifying prior conviction before committing the current offense.

(a) The provisions listed in this subdivision imposing a sentence enhancement of one year imprisonment in the state prison may be referenced as Schedule A.

(1) Money laundering when the value of transactions exceeds fifty thousand dollars ($50,000), but is less than one hundred fifty thousand dollars ($150,000) (subpara. (A), para. (1), subd. (c), Sec. 186.10, Pen. C.).

(2) Commission of two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related felony conduct, involving the taking of more than one hundred thousand dollars ($100,000) (para. (3), subd. (a), Sec. 186.11, Pen. C.).

(3) Felony conviction of willful harm or injury to a child, involving female genital mutilation (subd. (a), Sec. 273.4, Pen. C.).

(4) Prior conviction of felony hate crime with a current conviction of felony hate crime (subd. (e), Sec. 422.75, Pen. C.).

(5) Harming, obstructing, or interfering with any horse or dog being used by any peace officer in the discharge or attempted discharge of his or her duties and, with the intent to so harm, obstruct, or interfere, personally causing the death, destruction, or serious physical injury of any horse or dog (subd. (c), Sec. 600, Pen. C.).

(6) Prior prison term with current felony conviction (subd. (b), Sec. 667.5, Pen. C.).

(7) Commission of any specified offense against a person who is 65 years of age or older, blind, a paraplegic or quadriplegic, or under 14 years of age (subd. (a), Sec. 667.9, Pen. C.).

(8) Showing child pornography to a minor prior to or during the commission or attempted commission of any lewd or lascivious act with the minor (subd. (a), Sec. 667.15, Pen. C.).

(9) Felony conviction of forgery, grand theft, or false pretenses as part of plan or scheme to defraud an owner in connection with repairs to a structure damaged by a natural disaster (subd. (a), Sec. 667.16, Pen. C.).

(10) Impersonating a peace officer during the commission of a felony (Sec. 667.17, Pen. C.).

(11) Felony conviction of any specified offense, including, but not limited to, forgery, grand theft, and false pretenses, as part of plan or scheme to defraud an owner in connection with repairs to a structure damaged by natural disaster with a prior felony conviction of any of those offenses (subd. (c), Sec. 670, Pen. C.).

(12) Commission or attempted commission of a felony while armed with a firearm (para. (1), subd. (a), Sec. 12022, Pen. C.).

(13) Personally using a deadly or dangerous weapon in the commission or attempted commission of a felony (para. (1), subd. (b), Sec. 12022, Pen. C.).

(14) Taking, damaging, or destroying any property in the commission or attempted commission of a felony with the intent to cause that taking,

damage, or destruction when the loss exceeds fifty thousand dollars ($50,000) (para. (1), subd. (a), Sec. 12022.6, Pen. C.).

(15) Transferring, lending, selling, or giving any assault weapon to a minor (para. (2), subd. (a), Sec. 12280, Pen. C.).

(16) Manufacturing, causing to be manufactured, distributing, transporting, importing, keeping for sale, offering or exposing for sale, giving, or lending any assault weapon while committing another crime (subd. (d), Sec. 12280, Pen. C.).

(17) Inducing, employing, or using a minor to commit a drug offense involving heroin, cocaine, or cocaine base, or unlawfully furnishing one of these controlled substances to a minor, upon the grounds of, or within, a church, playground, youth center, child day care facility, or public swimming pool during business hours or whenever minors are using the facility (para. (1), subd. (a), Sec. 11353.1, H.& S.C.).

(18) Inducing another person to commit a drug offense as part of the drug transaction for which the defendant is convicted when the value of the controlled substance involved exceeds five hundred thousand dollars ($500,000) (para. (1), subd. (a), Sec. 11356.5, H.& S.C.).

(19) Manufacturing, compounding, converting, producing, deriving, processing, or preparing methamphetamine or phencyclidine (PCP), or attempting to commit any of those acts, or possessing specified combinations of substances with the intent to manufacture either methamphetamine or phencyclidine (PCP), when the commission or attempted commission of the offense causes the death or great bodily injury of another person other than an accomplice (subd. (a), Sec. 11379.9, H.& S.C.).

(20) Using a minor to commit a drug offense involving phencyclidine (PCP), methamphetamine, or lysergic acid diethylamide (LSD), or unlawfully furnishing one of these controlled substances to a minor, when the commission of the offense occurs upon the grounds of, or within, a church, playground, youth center, child day care facility, or public swimming pool during business hours or whenever minors are using the facility (para. (1), subd. (a), Sec. 11380.1, H.& S.C.).

(21) Causing bodily injury or death to more than one victim in any one instance of driving under the influence of any alcoholic beverage or drug (Sec. 23558, Veh. C.).

(22) Fraudulently appropriating food stamps, electronically transferred benefits, or authorizations to participate in the federal Food Stamp Program entrusted to a public employee, or knowingly using, transferring, selling, purchasing, or possessing any of the same in an unauthorized manner, when the offense is committed by means of an electronic transfer of benefits in an amount exceeding fifty thousand

dollars ($50,000), but less than one hundred fifty thousand dollars ($150,000) (subpara. (A), para. (1), subd. (h), Sec. 10980, W.& I.C.).

(b) The provisions listed in this subdivision imposing a sentence enhancement of one, two, or three years' imprisonment in the state prison may be referenced as Schedule B.

(1) Commission or attempted commission of a felony hate crime (subd. (a), Sec. 422.75, Pen. C.).

(2) Commission or attempted commission of a felony against the property of a public or private institution because the property is associated with a person or group of identifiable race, color, religion, nationality, country of origin, ancestry, gender, disability, or sexual orientation (subd. (b), Sec. 422.75, Pen. C.).

(3) Felony conviction of unlawfully causing a fire of any structure, forest land, or property when the defendant has been previously convicted of arson or unlawfully causing a fire, or when a firefighter, peace officer, or emergency personnel suffered great bodily injury, or when the defendant proximately caused great bodily injury to more than one victim, or caused multiple structures to burn (subd. (a), Sec. 452.1, Pen. C.).

(4) Carrying a loaded or unloaded firearm during the commission or attempted commission of any felony street gang crime (subd. (a), Sec. 12021.5, Pen. C.).

(5) Personally using a deadly or dangerous weapon in the commission of carjacking or attempted carjacking (para. (2), subd. (b), Sec. 12022, Pen. C.).

(6) Being a principal in the commission or attempted commission of any specified drug offense, knowing that another principal is personally armed with a firearm (subd. (d), Sec. 12022, Pen. C.).

(7) Furnishing or offering to furnish a firearm to another for the purpose of aiding, abetting, or enabling that person or any other person to commit a felony (Sec. 12022.4, Pen. C.).

(8) Selling, supplying, delivering, or giving possession or control of a firearm to any person within a prohibited class or to a minor when the firearm is used in the subsequent commission of a felony (para. (4), subd. (g), Sec. 12072, Pen. C.).

(9) Inducing, employing, or using a minor who is at least four years younger than the defendant to commit a drug offense involving any specified controlled substance, including, but not limited to, heroin, cocaine, and cocaine base, or unlawfully providing one of these controlled substances to a minor (para. (3), subd. (a), Sec. 11353.1, H.& S.C.).

(10) Prior conviction of inducing, employing, or using a minor to commit a drug offense involving cocaine base, or unlawfully providing

cocaine base to a minor that resulted in a prison sentence with a current conviction of the same offense (subd. (a), Sec. 11353.4, H.& S.C.).

(11) Prior conviction of inducing, employing, or using a minor to commit a drug offense involving cocaine base, or unlawfully providing cocaine base to a minor with a current conviction of the same offense involving a minor who is 14 years of age or younger (subd. (b), Sec. 11353.4, H.& S.C.).

(12) Inducing, employing, or using a minor who is at least four years younger than the defendant to commit a drug offense involving any specified controlled substance, including, but not limited to, phencyclidine (PCP), methamphetamine, and lysergic acid diethylamide (LSD), or unlawfully providing one of these controlled substances to a minor (para. (3), subd. (a), Sec. 11380.1, H.& S.C.).

(13) Causing great bodily injury or a substantial probability that death could result by the knowing disposal, transport, treatment, storage, burning, or incineration of any hazardous waste at a facility without permits or at an unauthorized point (subd. (e), Sec. 25189.5, and subd. (c), Sec. 25189.7, H.& S.C.).

(c) The provisions listed in this subdivision imposing a sentence enhancement of one, two, or five years' imprisonment in the state prison may be referenced as Schedule C.

(1) Wearing a bullet-resistant body vest in the commission or attempted commission of a violent offense (subd. (b), Sec. 12022.2, Pen. C.).

(2) Commission or attempted commission of any specified sex offense while armed with a firearm or deadly weapon (subd. (b), Sec. 12022.3, Pen. C.).

(d) The provisions listed in this subdivision imposing a sentence enhancement of 16 months, or two or three years' imprisonment in the state prison may be referenced as Schedule D.

(1) Knowing failure to register pursuant to Section 186.30 and subsequent conviction or violation of Section 186.30, as specified (para. (1), subd. (b), Sec. 186.33, Pen. C.).

(e) The provisions listed in this subdivision imposing a sentence enhancement of two years' imprisonment in the state prison may be referenced as Schedule E.

(1) Money laundering when the value of the transactions exceeds one hundred fifty thousand dollars ($150,000), but is less than one million dollars ($1,000,000) (subpara. (B), para. (1), subd. (c), Sec. 186.10, Pen. C.).

(2) Commission of two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related

felony conduct, involving the taking of more than one hundred fifty thousand dollars ($150,000) (para. (3), subd. (a), Sec. 186.11, Pen. C.).

(3) Conviction of any specified felony sex offense that is committed after fleeing to this state under specified circumstances (subd. (d), Sec. 289.5, Pen. C.).

(4) Prior conviction of any specified insurance fraud offense with current conviction of willfully injuring, destroying, secreting, abandoning, or disposing of any property insured against loss or damage by theft, embezzlement, or any casualty with the intent to defraud or prejudice the insurer (subd. (b), Sec. 548, Pen. C.).

(5) Prior conviction of any specified insurance fraud offense with current conviction of knowingly presenting any false or fraudulent insurance claim or multiple claims for the same loss or injury, or knowingly causing or participating in a vehicular collision for the purpose of presenting any false or fraudulent claim, or providing false or misleading information or concealing information for purpose of insurance fraud (subd. (e), Sec. 550, Pen. C.).

(6) Causing serious bodily injury as a result of knowingly causing or participating in a vehicular collision or accident for the purpose of presenting any false or fraudulent claim (subd. (g), Sec. 550, Pen. C.).

(7) Harming, obstructing, or interfering with any horse or dog being used by any peace officer in the discharge or attempted discharge of his or her duties and, with the intent to cause great bodily injury, personally causing great bodily injury to any person other than an accomplice (subd. (d), Sec. 600, Pen. C.).

(8) Prior conviction of any specified offense with current conviction of any of those offenses committed against a person who is 65 years of age or older, blind, a paraplegic or quadriplegic, or under 14 years of age (subd. (b), Sec. 667.9, Pen. C.).

(9) Prior conviction for sexual penetration with current conviction of the same offense committed against a person who is 65 years of age or older, blind, deaf, developmentally disabled, a paraplegic or quadriplegic, or under 14 years of age (subd. (a), Sec. 667.10, Pen. C.).

(10) Showing child pornography to a minor prior to or during the commission or attempted commission of continuous sexual abuse of the minor (subd. (b), Sec. 667.15, Pen. C.).

(11) Primary care provider in a day care facility committing any specified felony sex offense against a minor entrusted to his or her care (subd. (a), Sec. 674, Pen. C.).

(12) Commission of a felony offense while released from custody on bail or own recognizance (subd. (b), Sec. 12022.1, Pen. C.).

(13) Taking, damaging, or destroying any property in the commission or attempted commission of a felony with the intent to cause that taking,

damage, or destruction when the loss exceeds one hundred fifty thousand dollars ($150,000) (para. (2), subd. (a), Sec. 12022.6, Pen. C.).

(14) Inducing, employing, or using a minor to commit a drug offense involving heroin, cocaine, or cocaine base, or unlawfully furnishing one of these controlled substances to a minor, upon, or within 1,000 feet of, the grounds of a school during school hours or whenever minors are using the facility (para. (2), subd. (a), Sec. 11353.1, H.& S.C.).

(15) Inducing another person to commit a drug offense as part of the drug transaction for which the defendant is convicted when the value of the controlled substance involved exceeds two million dollars ($2,000,000) (para. (2), subd. (a), Sec. 11356.5, H.& S.C.).

(16) Manufacturing, compounding, converting, producing, deriving, processing, or preparing methamphetamine or phencyclidine (PCP), or attempting to commit any of those acts, or possessing specified combinations of substances with the intent to manufacture either methamphetamine or phencyclidine (PCP), when the commission or attempted commission of the crime occurs in a structure where any child under 16 years of age is present (subd. (a), Sec. 11379.7, H.& S.C.).

(17) Using a minor to commit a drug offense involving phencyclidine (PCP), methamphetamine, or lysergic acid diethylamide (LSD), or unlawfully furnishing one of these controlled substances to a minor, upon, or within 1,000 feet of, the grounds of a school during school hours or whenever minors are using the facility (para. (2), subd. (a), Sec. 11380.1, H.& S.C.).

(18) Prior felony conviction of any specified insurance fraud offense with a current conviction of making false or fraudulent statements concerning a workers' compensation claim (subd. (c), Sec. 1871.4, Ins. C.).

(19) Prior felony conviction of making or causing to be made any knowingly false or fraudulent statement of any fact material to the determination of the premium, rate, or cost of any policy of workers' compensation insurance for the purpose of reducing the premium, rate, or cost of the insurance with a current conviction of the same offense (subd. (b), Sec. 11760, Ins. C.).

(20) Prior felony conviction of making or causing to be made any knowingly false or fraudulent statement of any fact material to the determination of the premium, rate, or cost of any policy of workers' compensation insurance issued or administered by the State Compensation Insurance Fund for the purpose of reducing the premium, rate, or cost of the insurance with a current conviction of the same offense (subd. (b), Sec. 11880, Ins. C.).

(21) Fraudulently appropriating food stamps, electronically transferred benefits, or authorizations to participate in the federal Food

Stamp Program entrusted to a public employee, or knowingly using, transferring, selling, purchasing, or possessing, any of the same in an unauthorized manner, when the offense is committed by means of an electronic transfer of benefits in an amount exceeding one hundred fifty thousand dollars ($150,000), but less than one million dollars ($1,000,000) (subpara. (B), para. (1), subd. (h), Sec. 10980, W.& I.C.).

(f) The provisions listed in this subdivision imposing a sentence enhancement of two, three, or four years' imprisonment in the state prison may be referenced as Schedule F.

(1) Commission of a felony, other than a serious or violent felony, for the benefit of, at the direction of, or in association with, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members (subpara. (A), para. (1), subd. (b), Sec. 186.22, Pen. C.).

(2) Acting in concert with another person or aiding or abetting another person in committing or attempting to commit a felony hate crime (subd. (c), Sec. 422.75, Pen. C.).

(3) Carrying a loaded or unloaded firearm together with a detachable shotgun magazine, a detachable pistol magazine, a detachable magazine, or a belt-feeding device during the commission or attempted commission of any felony street gang crime (subd. (b), Sec. 12021.5, Pen. C.).

(g) The provisions listed in this subdivision imposing a sentence enhancement of two, three, or five years' imprisonment in the state prison may be referenced as Schedule G.

(1) Commission of two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related felony conduct, involving the taking of more than five hundred thousand dollars ($500,000) (para. (2), subd. (a), Sec. 186.11, Pen. C.).

(h) The provisions listed in this subdivision imposing a sentence enhancement of three years' imprisonment in the state prison may be referenced as Schedule H.

(1) Money laundering when the value of transactions exceeds one million dollars ($1,000,000), but is less than two million five hundred thousand dollars ($2,500,000) (subpara. (C), para. (1), subd. (c), Sec. 186.10, Pen. C.).

(2) Solicitation, recruitment, or coercion, of a minor to actively participate in a criminal street gang (subd. (d), Sec. 186.26, Pen. C.).

(3) Willfully mingling any poison or harmful substance which may cause death if ingested, or which causes the infliction of great bodily injury on any person, with any food, drink, medicine, or pharmaceutical product or willfully placing that poison or harmful substance in any

spring, well, reservoir, or public water supply (para. (2), subd. (a), Sec. 347, Pen. C.).

(4) Causing great bodily injury by willfully causing or permitting any elder or dependent adult to suffer, or inflicting pain or mental suffering upon, or endangering the health of, an elder or dependent adult when the victim is under 70 years of age (subpara. (A), para. (2), subd. (b), Sec. 368, Pen. C.).

(5) Maliciously driving or placing, in any tree, saw-log, shingle-bolt, or other wood, any iron, steel, ceramic, or other substance sufficiently hard to injure saws and causing bodily injury to another person other than an accomplice (subd. (b), Sec. 593a, Pen. C.).

(6) Prior prison term for violent felony with current violent felony conviction (subd. (a), Sec. 667.5, Pen. C.).

(7) Commission of any specified felony sex offense by a primary care provider in a day care facility against a minor entrusted to his or her care while voluntarily acting in concert with another (subd. (b), Sec. 674, Pen. C.).

(8) Commission or attempted commission of a felony while armed with an assault weapon or a machinegun (para. (2), subd. (a), Sec. 12022, Pen. C.).

(9) Taking, damaging, or destroying any property in the commission or attempted commission of a felony with the intent to cause that taking, damage, or destruction when the loss exceeds one million dollars ($1,000,000) (para. (3), subd. (a), Sec. 12022.6, Pen. C.).

(10) Personally inflicting great bodily injury on any person other than an accomplice in the commission or attempted commission of a felony (subd. (a), Sec. 12022.7, Pen. C.).

(11) Administering by injection, inhalation, ingestion, or any other means, any specified controlled substance against the victim's will by means of force, violence, or fear of immediate and unlawful bodily injury to the victim or another person for the purpose of committing a felony (Sec. 12022.75, Pen. C.).

(12) Commission of any specified sex offense with knowledge that the defendant has acquired immune deficiency syndrome (AIDS) or with the knowledge that he or she carries antibodies of the human immunodeficiency virus at the time of the commission of the offense (subd. (a), Sec. 12022.85, Pen. C.).

(13) Inducing another person to commit a drug offense as part of the drug transaction for which the defendant is convicted when the value of the controlled substance involved exceeds five million dollars ($5,000,000) (para. (3), subd. (a), Sec. 11356.5, H.& S.C.).

(14) Prior conviction of any specified drug offense with current conviction of any specified drug offense (subds. (a), (b), and (c), Sec. 11370.2, H.& S.C.).

(15) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when the substance exceeds one kilogram or 30 liters (para. (1), subd. (a), and para. (1), subd. (b), Sec. 11370.4, H.& S.C.).

(16) Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine, or phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of those acts, when the substance exceeds three gallons or one pound (para. (1), subd. (a), Sec. 11379.8, H.& S.C.).

(17) Four or more prior convictions of specified alcohol-related vehicle offenses with current conviction of driving under the influence and causing great bodily injury (subd. (c), Sec. 23566, Veh. C.).

(18) Fraudulently appropriating food stamps, electronically transferred benefits, or authorizations to participate in the federal Food Stamp Program entrusted to a public employee, or knowingly using, transferring, selling, purchasing, or possessing, any of the same in an unauthorized manner, when the offense is committed by means of an electronic transfer of benefits in an amount exceeding one million dollars ($1,000,000), but less than two million five hundred thousand dollars ($2,500,000) (subpara. (C), para. (1), subd. (h), Sec. 10980, W.& I.C.).

(i) The provisions listed in this subdivision imposing a sentence enhancement of three, four, or five years' imprisonment in the state prison may be referenced as Schedule I.

(1) Commission of felony arson with prior conviction of arson or unlawfully starting a fire, or causing great bodily injury to a firefighter, peace officer, other emergency personnel, or multiple victims, or causing the burning of multiple structures, or using an accelerator or ignition delay device (subd. (a), Sec. 451.1, Pen. C.).

(2) Commission or attempted commission of any specified drug offense while personally armed with a firearm (subd. (c), Sec. 12022, Pen. C.).

(3) Personally inflicting great bodily injury under circumstances involving domestic violence in the commission or attempted commission of a felony (subd. (e), Sec. 12022.7, Pen. C.).

(4) Commission of any specified drug offense involving cocaine base, heroin, or methamphetamine, or a conspiracy to commit any of those offenses, upon the grounds of, or within 1,000 feet of, a school

during school hours or when minors are using the facility (subd. (b), Sec. 11353.6, H.& S.C.).

(5) Commission of any specified drug offense involving cocaine base, heroin, or methamphetamine, or a conspiracy to violate any of those offenses, involving a minor who is at least four years younger than the defendant (subd. (c), Sec. 11353.6, H.& S.C.).

(j) The provisions listed in this subdivision imposing a sentence enhancement of 3, 4, or 10 years' imprisonment in the state prison may be referenced as Schedule J.

(1) Commission or attempted commission of any felony while armed with a firearm and in the immediate possession of ammunition for the firearm designed primarily to penetrate metal or armor (subd. (a), Sec. 12022.2, Pen. C.).

(2) Commission or attempted commission of any specified sex offense while using a firearm or deadly weapon (subd. (a), Sec. 12022.3, Pen. C.).

(3) Commission or attempted commission of a felony while personally using a firearm (subd. (a), Sec. 12022.5, Pen. C.).

(k) The provisions listed in this subdivision imposing a sentence enhancement of four years' imprisonment in the state prison may be referenced as Schedule K.

(1) Money laundering when the value of transactions exceeds two million five hundred thousand dollars ($2,500,000) (subpara. (D), para. (1), subd. (c), Sec. 186.10, Pen. C.).

(2) Prior conviction of willfully inflicting upon a child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition with current conviction of that offense (subd. (b), Sec. 273d, Pen. C.).

(3) Taking, damaging, or destroying any property in the commission or attempted commission of a felony with the intent to cause that taking, damage, or destruction when the loss exceeds two million five hundred thousand dollars ($2,500,000) (para. (4), subd. (a), Sec. 12022.6, Pen. C.).

(4) Willfully causing or permitting any child to suffer, or inflicting on the child unjustifiable physical pain or injury that results in death under circumstances or conditions likely to produce great bodily harm or death, or, having the care or custody of any child, willfully causing or permitting that child to be injured or harmed under circumstances likely to produce great bodily harm or death, when that injury or harm results in death (Sec. 12022.95, Pen. C.).

(5) Fraudulently appropriating food stamps, electronically transferred benefits, or authorizations to participate in the federal Food Stamp Program entrusted to a public employee, or knowingly using,

transferring, selling, purchasing, or possessing, any of the same in an unauthorized manner, when the offense is committed by means of an electronic transfer of benefits in an amount exceeding two million five hundred thousand dollars ($2,500,000) (subpara. (D), para. (1), subd. (h), Sec. 10980, W.& I.C.).

(6) Execution of a scheme or artifice to defraud the Medi-Cal program or any other health care program administered by the State Department of Health Services or its agents or contractors, or to obtain under false or fraudulent pretenses, representations, or promises any property owned by or under the custody of the Medi-Cal program or any health care program administered by the department, its agents, or contractors under circumstances likely to cause or that do cause two or more persons great bodily injury (subd. (d), Sec. 14107, W.& I.C.).

(*l*) The provisions listed in this subdivision imposing a sentence enhancement of four, five, or six years' imprisonment in the state prison may be referenced as Schedule L.

(1) Personally inflicting great bodily injury on a child under the age of five years in the commission or attempted commission of a felony (subd. (d), Sec. 12022.7, Pen. C.).

(m) The provisions listed in this subdivision imposing a sentence enhancement of five years' imprisonment in the state prison may be referenced as Schedule M.

(1) Commission of a serious felony for the benefit of, at the direction of, or in association with, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members (subpara. (B), para. (1), subd. (b), Sec. 186.22, Pen. C.).

(2) Using sex offender registration information to commit a felony (para. (1), subd. (b), Sec. 290.4, and para. (1), subd. (e), Sec. 290.45, Pen. C.).

(3) Causing great bodily injury by willfully causing or permitting any elder or dependent adult to suffer, or inflicting pain or mental suffering upon, or endangering the health of, an elder or dependent adult when the victim is 70 years of age or older (subpara. (B), para. (2), subd. (b), Sec. 368, Pen. C.).

(4) Causing death by willfully causing or permitting any elder or dependent adult to suffer, or inflicting pain or mental suffering upon, or endangering the health of, an elder or dependent adult when the victim is under 70 years of age (subpara. (A), para. (3), subd. (b), Sec. 368, Pen. C.).

(5) Two prior felony convictions of knowingly causing or participating in a vehicular collision or accident for the purpose of presenting any false or fraudulent claim with current conviction of the same (subd. (f), Sec. 550, Pen. C.).

(6) Prior conviction of a serious felony with current conviction of a serious felony (para. (1), subd. (a), Sec. 667, Pen. C.).

(7) Prior conviction of any specified sex offense with current conviction of lewd and lascivious acts with a child under 14 years of age (subd. (a), Sec. 667.51, Pen. C.).

(8) Prior conviction of any specified sex offense with current conviction of any of those sex offenses (subd. (a), Sec. 667.6, Pen. C.).

(9) Kidnapping or carrying away any child under 14 years of age with the intent to permanently deprive the parent or legal guardian custody of that child (Sec. 667.85, Pen. C.).

(10) Personally inflicting great bodily injury on any person other than an accomplice in the commission or attempted commission of a felony that causes the victim to become comatose due to a brain injury or to suffer paralysis of a permanent nature (subd. (b), Sec. 12022.7, Pen. C.).

(11) Personally inflicting great bodily injury on another person who is 70 years of age or older other than an accomplice in the commission or attempted commission of a felony (subd. (c), Sec. 12022.7, Pen. C.).

(12) Inflicting great bodily injury on any victim in the commission or attempted commission of any specified sex offense (Sec. 12022.8, Pen. C.).

(13) Personally and intentionally inflicting injury upon a pregnant woman during the commission or attempted commission of a felony that results in the termination of the pregnancy when the defendant knew or reasonably should have known that the victim was pregnant (Sec. 12022.9, Pen. C.).

(14) Using information disclosed to the licensee of a community care facility by a prospective client regarding his or her status as a sex offender to commit a felony (subd. (c), Sec. 1522.01, H.& S.C.).

(15) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when the substance exceeds 4 kilograms or 100 liters (para. (2), subd. (a), and para. (2), subd. (b), Sec. 11370.4, H.& S.C.).

(16) Manufacturing, compounding, converting, producing, deriving, processing, or preparing methamphetamine or phencyclidine (PCP), or attempting to commit any of those acts, or possessing specified combinations of substances with the intent to manufacture either methamphetamine or phencyclidine (PCP), when the commission of the crime causes any child under 16 years of age to suffer great bodily injury (subd. (b), Sec. 11379.7, H.& S.C.).

(17) Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine, or phencyclidine (PCP) or its analogs or precursors,

or attempting to commit any of those acts, when the substance exceeds 10 gallons or three pounds (para. (2), subd. (a), Sec. 11379.8, H.& S.C.).

(18) Fleeing the scene of the crime after commission of vehicular manslaughter (subd. (c), Sec. 20001, Veh. C.).

(n) The provisions listed in this subdivision imposing a sentence enhancement of 5, 6, or 10 years' imprisonment in the state prison may be referenced as Schedule N.

(1) Commission or attempted commission of a felony while personally using an assault weapon or a machinegun (subd. (b), Sec. 12022.5, Pen. C.).

(2) Discharging a firearm from a motor vehicle in the commission or attempted commission of a felony with the intent to inflict great bodily injury or death and causing great bodily injury or death (Sec. 12022.55, Pen. C.).

(o) The provisions listed in this subdivision imposing a sentence enhancement of seven years' imprisonment in the state prison may be referenced as Schedule O.

(1) Causing death by willfully causing or permitting any elder or dependent adult to suffer, or inflicting pain or mental suffering upon, or endangering the health of, an elder or dependent adult when the victim is 70 years of age or older (subpara. (B), para. (3), subd. (b), Sec. 368, Pen. C.).

(p) The provisions listed in this subdivision imposing a sentence enhancement of nine years' imprisonment in the state prison may be referenced as Schedule P.

(1) Kidnapping a victim for the purpose of committing any specified felony sex offense (subd. (a), Sec. 667.8, Pen. C.).

(q) The provisions listed in this subdivision imposing a sentence enhancement of 10 years' imprisonment in the state prison may be referenced as Schedule Q.

(1) Commission of a violent felony for the benefit of, at the direction of, or in association with, any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members (subpara. (C), para. (1), subd. (b), Sec. 186.22, Pen. C.).

(2) Two or more prior prison terms for any specified sex offense with current conviction of any of those sex offenses (subd. (b), Sec. 667.6, Pen. C.).

(3) Commission or attempted commission of any specified felony offense while personally using a firearm (subd. (b), Sec. 12022.53, Pen. C.).

(4) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when the substance exceeds 10

kilograms or 200 liters (para. (3), subd. (a), and para. (3), subd. (b), Sec. 11370.4, H.& S.C.).

(5) Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine, or phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of those acts, when the substance exceeds 25 gallons or 10 pounds (para. (3), subd. (a), Sec. 11379.8, H.& S.C.).

(r) The provisions listed in this subdivision imposing a sentence enhancement of 15 years' imprisonment in the state prison may be referenced as Schedule R.

(1) Kidnapping a victim under 14 years of age for the purpose of committing any specified felony sex offense (subd. (b), Sec. 667.8, Pen. C.).

(2) Commission of any specified drug offense involving a substance containing heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine (PCP), when the substance exceeds 20 kilograms or 400 liters (para. (4), subd. (a), and para. (4), subd. (b), Sec. 11370.4, H.& S.C.).

(3) Manufacturing, compounding, converting, producing, deriving, processing, or preparing any substance containing amphetamine, methamphetamine, or phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of those acts, when the substance exceeds 105 gallons or 44 pounds (para. (4), subd. (a), Sec. 11379.8, H.& S.C.).

(s) The provisions listed in this subdivision imposing a sentence enhancement of 20 years' imprisonment in the state prison may be referenced as Schedule S.

(1) Intentionally and personally discharging a firearm in the commission or attempted commission of any specified felony offense (subd. (c), Sec. 12022.53, Pen. C.).

(2) Commission of any specified drug offense involving a substance containing heroin, cocaine base, or cocaine, when the substance exceeds 40 kilograms (para. (5), subd. (a), Sec. 11370.4, H.& S.C.).

(t) The provisions listed in this subdivision imposing a sentence enhancement of 25 years' imprisonment in the state prison may be referenced as Schedule T.

(1) Commission of any specified drug offense involving a substance containing heroin, cocaine base, or cocaine, when the substance exceeds 80 kilograms (para. (6), subd. (a), Sec. 11370.4, H.& S.C.).

(u) The provisions listed in this subdivision imposing a sentence enhancement of 25 years to life imprisonment in the state prison may be referenced as Schedule U.

(1) Intentionally and personally discharging a firearm in the commission or attempted commission of any specified felony offense

and proximately causing great bodily injury to any person other than an accomplice (subd. (d), Sec. 12022.53, Pen. C.).

SEC. 11. Section 836 of the Penal Code is amended to read:

836. (a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted to him or her by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, may arrest a person whenever any of the following circumstances occur:

(1) The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence.

(2) The person arrested has committed a felony, although not in the officer's presence.

(3) The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.

(b) Any time a peace officer is called out on a domestic violence call, it shall be mandatory that the officer make a good faith effort to inform the victim of his or her right to make a citizen's arrest. This information shall include advising the victim how to safely execute the arrest.

(c) (1) When a peace officer is responding to a call alleging a violation of a domestic violence protective or restraining order issued under Section 527.6 of the Code of Civil Procedure, the Family Code, Section 136.2, 646.91, or paragraph (2) of subdivision (a) of Section 1203.097 of this code, Section 213.5 or 15657.03 of the Welfare and Institutions Code, or of a domestic violence protective or restraining order issued by the court of another state, tribe, or territory and the peace officer has probable cause to believe that the person against whom the order is issued has notice of the order and has committed an act in violation of the order, the officer shall, consistent with subdivision (b) of Section 13701, make a lawful arrest of the person without a warrant and take that person into custody whether or not the violation occurred in the presence of the arresting officer. The officer shall, as soon as possible after the arrest, confirm with the appropriate authorities or the Domestic Violence Protection Order Registry maintained pursuant to Section 6380 of the Family Code that a true copy of the protective order has been registered, unless the victim provides the officer with a copy of the protective order.

(2) The person against whom a protective order has been issued shall be deemed to have notice of the order if the victim presents to the officer proof of service of the order, the officer confirms with the appropriate authorities that a true copy of the proof of service is on file, or the person against whom the protective order was issued was present at the

protective order hearing or was informed by a peace officer of the contents of the protective order.

(3) In situations where mutual protective orders have been issued under Division 10 (commencing with Section 6200) of the Family Code, liability for arrest under this subdivision applies only to those persons who are reasonably believed to have been the primary aggressor. In those situations, prior to making an arrest under this subdivision, the peace officer shall make reasonable efforts to identify, and may arrest, the primary aggressor involved in the incident. The primary aggressor is the person determined to be the most significant, rather than the first, aggressor. In identifying the primary aggressor, an officer shall consider (A) the intent of the law to protect victims of domestic violence from continuing abuse, (B) the threats creating fear of physical injury, (C) the history of domestic violence between the persons involved, and (D) whether either person involved acted in self-defense.

(d) Notwithstanding paragraph (1) of subdivision (a), if a suspect commits an assault or battery upon a current or former spouse, fiancé, fiancée, a current or former cohabitant as defined in Section 6209 of the Family Code, a person with whom the suspect currently is having or has previously had an engagement or dating relationship, as defined in paragraph (10) of subdivision (f) of Section 243, a person with whom the suspect has parented a child, or is presumed to have parented a child pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code), a child of the suspect, a child whose parentage by the suspect is the subject of an action under the Uniform Parentage Act, a child of a person in one of the above categories, any other person related to the suspect by consanguinity or affinity within the second degree, or any person who is 65 years of age or older and who is related to the suspect by blood or legal guardianship, a peace officer may arrest the suspect without a warrant where both of the following circumstances apply:

(1) The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

(2) The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

(e) In addition to the authority to make an arrest without a warrant pursuant to paragraphs (1) and (3) of subdivision (a), a peace officer may, without a warrant, arrest a person for a violation of Section 12025 when all of the following apply:

(1) The officer has reasonable cause to believe that the person to be arrested has committed the violation of Section 12025.

(2) The violation of Section 12025 occurred within an airport, as defined in Section 21013 of the Public Utilities Code, in an area to which access is controlled by the inspection of persons and property.

(3) The peace officer makes the arrest as soon as reasonable cause arises to believe that the person to be arrested has committed the violation of Section 12025.

SEC. 12. 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, 273.4, 289.5, 290.4, 290.45, 347, and 368, subdivisions (a), (b), and (c) 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, 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, 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. 13. Section 1337 of the Penal Code is amended to read:

1337. The application shall be made upon affidavit stating all of the following:

(1) The nature of the offense charged.

(2) The state of the proceedings in the action.

(3) The name and residence of the witness, and that his or her testimony is material to the defense or the prosecution of the action.

(4) That the witness is about to leave the state, or is so sick or infirm as to afford reasonable grounds for apprehending that he or she will not be able to attend the trial, or is a person 70 years of age or older, or a dependent adult, or that the life of the witness is in jeopardy.

SEC. 14. Section 1341 of the Penal Code is amended to read:

1341. If, at the time and place so designated, it is shown to the satisfaction of the magistrate that the witness is not about to leave the state, or is not sick or infirm, or is not a person 70 years of age or older, or a dependent adult, or that the life of the witness is not in jeopardy, or that the application was made to avoid the examination of the witness on the trial, the examination cannot take place.

SEC. 15. Section 1372 of the Penal Code is amended to read:

1372. (a) (1) If the medical director of the state hospital or other facility to which the defendant is committed, or the community program director, county mental health director, or regional center director providing outpatient services, determines that the defendant has regained mental competence, the director shall immediately certify that fact to the court by filing a certificate of restoration with the court by certified mail, return receipt requested. For purposes of this section, the date of filing shall be the date on the return receipt.

(2) The court's order committing an individual to a state hospital or other treatment facility pursuant to Section 1370 shall include direction that the sheriff shall redeliver the patient to the court without any further order from the court upon receiving from the state hospital or treatment facility a copy of the certificate of restoration.

(3) The defendant shall be returned to the committing court in the following manner:

(A) A patient who remains confined in a state hospital or other treatment facility shall be redelivered to the sheriff of the county from which the patient was committed. The sheriff shall immediately return the person from the state hospital or other treatment facility to the court for further proceedings.

(B) The patient who is on outpatient status shall be returned by the sheriff to court through arrangements made by the outpatient treatment supervisor.

(C) In all cases, the patient shall be returned to the committing court no later than 10 days following the filing of a certificate of restoration. The state shall only pay for 10 hospital days for patients following the filing of a certificate of restoration of competency. The State Department of Mental Health shall report to the fiscal and appropriate policy committees of the Legislature on an annual basis in February, on the number of days that exceed the 10-day limit prescribed in this subparagraph. This report shall include, but not be limited to, a data sheet that itemizes by county the number of days that exceed this 10-day limit during the preceding year.

(b) If the defendant becomes mentally competent after a conservatorship has been established pursuant to the applicable provisions of the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, and Section 1370, the conservator shall certify that fact to the sheriff and district attorney of the county in which the defendant's case is pending, defendant's attorney of record, and the committing court.

(c) When a defendant is returned to court with a certification that competence has been regained, the court shall notify either the community program director, the county mental health director, or the

regional center director and the Director of Developmental Services, as appropriate, of the date of any hearing on the defendant's competence and whether or not the defendant was found by the court to have recovered competence.

(d) If the committing court approves the certificate of restoration to competence as to a person in custody, the court shall hold a hearing to determine whether the person is entitled to be admitted to bail or released on own recognizance status pending conclusion of the proceedings. If the superior court approves the certificate of restoration to competence regarding a person on outpatient status, unless it appears that the person has refused to come to court, that person shall remain released either on own recognizance status, or, in the case of a developmentally disabled person, either on the defendant's promise or on the promise of a responsible adult to secure the person's appearance in court for further proceedings. If the person has refused to come to court, the court shall set bail and may place the person in custody until bail is posted.

(e) A defendant subject to either subdivision (a) or (b) who is not admitted to bail or released under subdivision (d) may, at the discretion of the court, upon recommendation of the director of the facility where the defendant is receiving treatment, be returned to the hospital or facility of his or her original commitment or other appropriate secure facility approved by the community program director, the county mental health director, or the regional center director. The recommendation submitted to the court shall be based on the opinion that the person will need continued treatment in a hospital or treatment facility in order to maintain competence to stand trial or that placing the person in a jail environment would create a substantial risk that the person would again become incompetent to stand trial before criminal proceedings could be resumed.

(f) Notwithstanding subdivision (e), if a defendant is returned by the court to a hospital or other facility for the purpose of maintaining competency to stand trial and that defendant is already under civil commitment to that hospital or facility from another county pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or as a developmentally disabled person committed pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, the costs of housing and treating the defendant in that facility following return pursuant to subdivision (e) shall be the responsibility of the original county of civil commitment.

SEC. 16. Section 1405 of the Penal Code is amended to read:

1405. (a) A person who was convicted of a felony and is currently serving a term of imprisonment may make a written motion before the

trial court that entered the judgment of conviction in his or her case, for performance of forensic deoxyribonucleic acid (DNA) testing.

(b) (1) An indigent convicted person may request appointment of counsel to prepare a motion under this section by sending a written request to the court. The request shall include the person's statement that he or she was not the perpetrator of the crime and that DNA testing is relevant to his or her assertion of innocence. The request also shall include the person's statement as to whether he or she previously has had counsel appointed under this section.

(2) If any of the information required in paragraph (1) is missing from the request, the court shall return the request to the convicted person and advise him or her that the matter cannot be considered without the missing information.

(3) (A) Upon a finding that the person is indigent, he or she has included the information required in paragraph (1), and counsel has not previously been appointed pursuant to this subdivision, the court shall appoint counsel to investigate and, if appropriate, to file a motion for DNA testing under this section and to represent the person solely for the purpose of obtaining DNA testing under this section.

(B) Upon a finding that the person is indigent, and counsel previously has been appointed pursuant to this subdivision, the court may, in its discretion, appoint counsel to investigate and, if appropriate, to file a motion for DNA testing under this section and to represent the person solely for the purpose of obtaining DNA testing under this section.

(4) Nothing in this section shall be construed to provide for a right to the appointment of counsel in a postconviction collateral proceeding, or to set a precedent for any such right, in any context other than the representation being provided an indigent convicted person for the limited purpose of filing and litigating a motion for DNA testing pursuant to this section.

(c) (1) The motion shall be verified by the convicted person under penalty of perjury and shall do all of the following:

(A) Explain why the identity of the perpetrator was, or should have been, a significant issue in the case.

(B) Explain, in light of all the evidence, how the requested DNA testing would raise a reasonable probability that the convicted person's verdict or sentence would be more favorable if the results of DNA testing had been available at the time of conviction.

(C) Make every reasonable attempt to identify both the evidence that should be tested and the specific type of DNA testing sought.

(D) Reveal the results of any DNA or other biological testing that was conducted previously by either the prosecution or defense, if known.

(E) State whether any motion for testing under this section previously has been filed and the results of that motion, if known.

(2) Notice of the motion shall be served on the Attorney General, the district attorney in the county of conviction, and, if known, the governmental agency or laboratory holding the evidence sought to be tested. Responses, if any, shall be filed within 60 days of the date on which the Attorney General and the district attorney are served with the motion, unless a continuance is granted for good cause.

(d) If the court finds evidence was subjected to DNA or other forensic testing previously by either the prosecution or defense, it shall order the party at whose request the testing was conducted to provide all parties and the court with access to the laboratory reports, underlying data, and laboratory notes prepared in connection with the DNA or other biological evidence testing.

(e) The court, in its discretion, may order a hearing on the motion. The motion shall be heard by the judge who conducted the trial, or accepted the convicted person's plea of guilty or nolo contendre, unless the presiding judge determines that judge is unavailable. Upon request of either party, the court may order, in the interest of justice, that the convicted person be present at the hearing of the motion.

(f) The court shall grant the motion for DNA testing if it determines all of the following have been established:

(1) The evidence to be tested is available and in a condition that would permit the DNA testing requested in the motion.

(2) The evidence to be tested has been subject to a chain of custody sufficient to establish it has not been substituted, tampered with, replaced or altered in any material aspect.

(3) The identity of the perpetrator of the crime was, or should have been, a significant issue in the case.

(4) The convicted person has made a prima facie showing that the evidence sought to be tested is material to the issue of the convicted person's identity as the perpetrator of, or accomplice to, the crime, special circumstance, or enhancement allegation that resulted in the conviction or sentence.

(5) The requested DNA testing results would raise a reasonable probability that, in light of all the evidence, the convicted person's verdict or sentence would have been more favorable if the results of DNA testing had been available at the time of conviction. The court in its discretion may consider any evidence whether or not it was introduced at trial.

(6) The evidence sought to be tested meets either of the following conditions:

(A) The evidence was not tested previously.

(B) The evidence was tested previously, but the requested DNA test would provide results that are reasonably more discriminating and probative of the identity of the perpetrator or accomplice or have a reasonable probability of contradicting prior test results.

(7) The testing requested employs a method generally accepted within the relevant scientific community.

(8) The motion is not made solely for the purpose of delay.

(g) (1) If the court grants the motion for DNA testing, the court order shall identify the specific evidence to be tested and the DNA technology to be used.

(2) The testing shall be conducted by a laboratory mutually agreed upon by the district attorney in a noncapital case, or the Attorney General in a capital case, and the person filing the motion. If the parties cannot agree, the court shall designate the laboratory to conduct the testing and shall consider designating a laboratory accredited by the American Society of Crime Laboratory Directors Laboratory Accreditation Board (ASCLD/LAB).

(h) The result of any testing ordered under this section shall be fully disclosed to the person filing the motion, the district attorney, and the Attorney General. If requested by any party, the court shall order production of the underlying laboratory data and notes.

(i) (1) The cost of DNA testing ordered under this section shall be borne by the state or the applicant, as the court may order in the interests of justice, if it is shown that the applicant is not indigent and possesses the ability to pay. However, the cost of any additional testing to be conducted by the district attorney or Attorney General shall not be borne by the convicted person.

(2) In order to pay the state's share of any testing costs, the laboratory designated in subdivision (g) shall present its bill for services to the superior court for approval and payment. It is the intent of the Legislature to appropriate funds for this purpose in the 2000–01 Budget Act.

(j) An order granting or denying a motion for DNA testing under this section shall not be appealable, and shall be subject to review only through petition for writ of mandate or prohibition filed by the person seeking DNA testing, the district attorney, or the Attorney General. The petition shall be filed within 20 days after the court's order granting or denying the motion for DNA testing. In a noncapital case, the petition for writ of mandate or prohibition shall be filed in the court of appeal. In a capital case, the petition shall be filed in the California Supreme Court. The court of appeal or California Supreme Court shall expedite its review of a petition for writ of mandate or prohibition filed under this subdivision.

(k) DNA testing ordered by the court pursuant to this section shall be done as soon as practicable. However, if the court finds that a miscarriage of justice will otherwise occur and that it is necessary in the interests of justice to give priority to the DNA testing, a DNA laboratory shall be required to give priority to the DNA testing ordered pursuant to this section over the laboratory's other pending casework.

(*l*) DNA profile information from biological samples taken from a convicted person pursuant to a motion for postconviction DNA testing is exempt from any law requiring disclosure of information to the public.

(m) Notwithstanding any other provision of law, the right to file a motion for postconviction DNA testing provided by this section is absolute and shall not be waived. This prohibition applies to, but is not limited to, a waiver that is given as part of an agreement resulting in a plea of guilty or nolo contendre.

(n) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 17. Section 4501 of the Penal Code is amended to read:

4501. Except as provided in Section 4500, every person confined in a state prison of this state who commits an assault upon the person of another with a deadly weapon or instrument, or by any means of force likely to produce great bodily injury, shall be guilty of a felony and shall be imprisoned in the state prison for two, four, or six years to be served consecutively.

SEC. 18. Section 11171 of the Penal Code is amended to read:

11171. (a) (1) The Legislature hereby finds and declares that adequate protection of victims of child physical abuse or neglect has been hampered by the lack of consistent and comprehensive medical examinations.

(2) Enhancing examination procedures, documentation, and evidence collection relating to child abuse or neglect will improve the investigation and prosecution of child abuse or neglect as well as other child protection efforts.

(b) The agency or agencies designated by the Director of Finance pursuant to Section 13820 shall, in cooperation with the State Department of Social Services, the Department of Justice, the California Association of Crime Lab Directors, the California District Attorneys Association, the California State Sheriffs Association, the California Peace Officers Association, the California Medical Association, the California Police Chiefs' Association, child advocates, the California Medical Training Center, child protective services, and other appropriate experts, establish medical forensic forms, instructions, and examination

protocols for victims of child physical abuse or neglect using as a model the form and guidelines developed pursuant to Section 13823.5.

(c) The forms shall include, but not be limited to, a place for notation concerning each of the following:

(1) Any notification of injuries or any report of suspected child physical abuse or neglect to law enforcement authorities or children's protective services, in accordance with existing reporting procedures.

(2) Addressing relevant consent issues, if indicated.

(3) The taking of a patient history of child physical abuse or neglect that includes other relevant medical history.

(4) The performance of a physical examination for evidence of child physical abuse or neglect.

(5) The collection or documentation of any physical evidence of child physical abuse or neglect, including any recommended photographic procedures.

(6) The collection of other medical or forensic specimens, including drug ingestion or toxication, as indicated.

(7) Procedures for the preservation and disposition of evidence.

(8) Complete documentation of medical forensic exam findings with recommendations for diagnostic studies, including blood tests and X-rays.

(9) An assessment as to whether there are findings that indicate physical abuse or neglect.

(d) The forms shall become part of the patient's medical record pursuant to guidelines established by the advisory committee of the agency or agencies designated by the Director of Finance pursuant to Section 13820 and subject to the confidentiality laws pertaining to the release of a medical forensic examination records.

(e) The forms shall be made accessible for use on the Internet.

SEC. 19. Section 13010 of the Penal Code is amended to read:

13010. It shall be the duty of the department:

(a) To collect data necessary for the work of the department from all persons and agencies mentioned in Section 13020 and from any other appropriate source.

(b) To prepare and distribute to all those persons and agencies, cards, forms, or electronic means used in reporting data to the department. The cards, forms, or electronic means may, in addition to other items, include items of information needed by federal bureaus or departments engaged in the development of national and uniform criminal statistics.

(c) To recommend the form and content of records which must be kept by those persons and agencies in order to insure the correct reporting of data to the department.

(d) To instruct those persons and agencies in the installation, maintenance, and use of those records and in the reporting of data therefrom to the department.

(e) To process, tabulate, analyze and interpret the data collected from those persons and agencies.

(f) To supply, at their request, to federal bureaus or departments engaged in the collection of national criminal statistics data they need from this state.

(g) To present to the Governor, on or before July 1st, a printed annual report containing the criminal statistics of the preceding calendar year and to present at other times as the Attorney General may approve reports on special aspects of criminal statistics. A sufficient number of copies of all reports shall be printed or otherwise prepared to enable the Attorney General to send a copy to all public officials in the state dealing with criminals and to distribute them generally in channels where they will add to the public enlightenment.

(h) To periodically review the requirements of units of government using criminal justice statistics, and to make recommendations for changes it deems necessary in the design of criminal justice statistics systems, including new techniques of collection and processing made possible by automation.

SEC. 20. Section 13014 of the Penal Code is amended to read:

13014. (a) The Department of Justice shall perform the following duties concerning the investigation and prosecution of homicide cases:

(1) Collect information, as specified in subdivision (b), on all persons who are the victims of, and all persons who are charged with, homicide.

(2) Adopt and distribute as a written form or by electronic means to all state and governmental entities that are responsible for the investigation and prosecution of homicide cases forms that will include information to be provided to the department pursuant to subdivision (b).

(3) Compile, collate, index, and maintain a file of the information required by subdivision (b). The file shall be available to the general public during the normal business hours of the department, and the department shall annually publish a report containing the information required by this section, which shall also be available to the general public.

The department shall perform the duties specified in this subdivision within its existing budget.

(b) Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the

person or persons charged with the crime, including age, gender, race, and ethnic background.

SEC. 21. Section 13022 of the Penal Code is amended to read:

13022. Each sheriff and chief of police shall annually furnish the Department of Justice, in the manner prescribed by the Attorney General, a report of all justifiable homicides committed in his or her jurisdiction. In cases where both a sheriff and chief of police would be required to report a justifiable homicide under this section, only the chief of police shall report the homicide.

SEC. 22. Section 13510.7 of the Penal Code is amended to read:

13510.7. (a) Whenever any person holding a certificate issued pursuant to Section 13510.1 is determined to be disqualified from holding office or being employed as a peace officer for the reasons set forth in subdivision (a) of Section 1029 of the Government Code, and the person has exhausted or waived his or her appeal, pursuant to Section 1237 or Section 1237.5, from the conviction or finding that forms the basis for or accompanies his or her disqualification, the commission shall cause the following to be entered in the commission's training record for that person: "THIS PERSON IS INELIGIBLE TO BE A PEACE OFFICER IN CALIFORNIA PURSUANT TO GOVERNMENT CODE SECTION 1029(a)."

(b) Whenever any person who is required to possess a basic certificate issued by the commission pursuant to Section 832.4 or who is subject to subdivision (a) of Section 13510.1 is determined to be disqualified from holding office or being employed as a peace officer for the reasons set forth in subdivision (a) of Section 1029 of the Government Code, the commission shall notify the law enforcement agency that employs the person that the person is ineligible to be a peace officer in California pursuant to subdivision (a) of Section 1029 of the Government Code. The person's basic certificate shall be null and void and the commission shall enter this information in the commission's training record for that person.

(c) After the time for filing a notice of appeal has passed, or where the remittitur has been issued following the filing of a notice of appeal, in a criminal case establishing the ineligibility of a person to be a peace officer as specified in subdivision (c), the commission shall reinstate a person's basic certificate in the event a conviction of the offense requiring or accompanying ineligibility is subsequently overturned or reversed by the action of a court of competent jurisdiction.

(d) Upon request of a person who is eligible for reinstatement pursuant to paragraph (2) of subdivision (b) of Section 1029 of the Government Code because of successful completion of probation pursuant to Section 1210.1 of the Penal Code, the court having

jurisdiction over the matter in which probation was ordered pursuant to Section 1210.1 shall notify the commission of the successful completion and the misdemeanor nature of the person's conviction. The commission shall thereupon reinstate the person's eligibility. Reinstatement of eligibility in the person's training record shall not create a mandate that the person be hired by any agency.

SEC. 23. Section 13823.9 of the Penal Code is amended to read:

13823.9. (a) Every public or private general acute care hospital that examines a victim of sexual assault or attempted sexual assault, including child molestation, shall comply with the standards specified in Section 13823.11 and the protocol and guidelines adopted pursuant to Section 13823.5.

(b) Each county with a population of more than 100,000 shall arrange that professional personnel trained in the examination of victims of sexual assault, including child molestation, shall be present or on call either in the county hospital which provides emergency medical services or in any general acute care hospital which has contracted with the county to provide emergency medical services. In counties with a population of 1,000,000 or more, the presence of these professional personnel shall be arranged in at least one general acute care hospital for each 1,000,000 persons in the county.

(c) Each county shall designate at least one general acute care hospital to perform examinations on victims of sexual assault, including child molestation.

(d) (1) The protocol published by the agency or agencies designated by the Director of Finance pursuant to Section 13820 shall be used as a guide for the procedures to be used by every public or private general acute care hospital in the state for the examination and treatment of victims of sexual assault and attempted sexual assault, including child molestation, and the collection and preservation of evidence therefrom.

(2) The informational guide developed by the agency or agencies designated by the Director of Finance pursuant to Section 13820 shall be consulted where indicated in the protocol, as well as to gain knowledge about all aspects of examination and treatment of victims of sexual assault and child molestation.

SEC. 24. Section 13879.81 of the Penal Code is amended to read:

13879.81. Communities are encouraged to form multijurisdictional groups that include law enforcement officers, prosecutors, public health professionals, and social workers to address the welfare of children endangered by parental drug use. These coordinated groups should develop standards and protocols, evidenced by memorandums of understanding, that address the following:

(a) Felony and misdemeanor arrests.

(b) Immediate response of protective social workers to a narcotics crime scene involving a child.

(c) Outsourcing protective social workers to law enforcement.

(d) Dependency investigations.

(e) Forensic drug testing and interviewing.

(f) Decontamination of a child found in a lab setting.

(g) Medical examinations and developmental evaluations.

(h) Creation of two hours of P.O.S.T. drug endangered children awareness training.

SEC. 25. Section 285 of the Welfare and Institutions Code is amended to read:

285. All probation officers shall make periodic reports to the Attorney General at those times and in the manner prescribed by the Attorney General, provided that no names or social security numbers shall be transmitted regarding any proceeding under Section 300 or 601.

SEC. 26. Section 15763 of the Welfare and Institutions Code is amended to read:

15763. (a) Each county shall establish an emergency response adult protective services program that shall provide in-person response, 24 hours per day, seven days per week, to reports of abuse of an elder or a dependent adult, for the purpose of providing immediate intake or intervention, or both, to new reports involving immediate life threats and to crises in existing cases. The program shall include policies and procedures to accomplish all of the following:

(1) Provision of case management services that include investigation of the protection issues, assessment of the person's concerns, needs, strengths, problems, and limitations, stabilization and linking with community services, and development of a service plan to alleviate identified problems utilizing counseling, monitoring, followup, and reassessment.

(2) Provisions for emergency shelter or in-home protection to guarantee a safe place for the elder or dependent adult to stay until the dangers at home can be resolved.

(3) Establishment of multidisciplinary teams to develop interagency treatment strategies, to ensure maximum coordination with existing community resources, to ensure maximum access on behalf of elders and dependent adults, and to avoid duplication of efforts.

(b) (1) A county shall respond immediately to any report of imminent danger to an elder or dependent adult residing in other than a long-term care facility, as defined in Section 9701 of the Welfare and Institutions Code, or a residential facility, as defined in Section 1502 of the Health and Safety Code. For reports involving persons residing in a long-term care facility or a residential care facility, the county shall

report to the local long-term care ombudsman program. Adult protective services staff shall consult, coordinate, and support efforts of the ombudsman program to protect vulnerable residents. Except as specified in paragraph (2), the county shall respond to all other reports of danger to an elder or dependent adult in other than a long-term care facility or residential care facility within 10 calendar days or as soon as practicably possible.

(2) An immediate or 10-day in-person response is not required when the county, based upon an evaluation of risk, determines and documents that the elder or dependent adult is not in imminent danger and that an immediate or 10-day in-person response is not necessary to protect the health or safety of the elder or dependent adult.

(3) The State Department of Social Services, in consultation with the County Welfare Directors Association, shall develop requirements for implementation of paragraph (2), including, but not limited to, guidelines for determining appropriate application of this section and any applicable documentation requirements.

(4) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall implement the requirements developed pursuant to paragraph (3) by means of all-county letters or similar instructions prior to adopting regulations for that purpose. Thereafter, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) A county shall not be required to report or respond to a report pursuant to subdivision (b) that involves danger to an elder or dependent adult residing in any facility for the incarceration of prisoners that is operated by or under contract to the Federal Bureau of Prisons, the Department of Corrections, the California Department of the Youth Authority, a county sheriff's department, a county probation department, a city police department, or any other law enforcement agency when the abuse reportedly has occurred in that facility.

(d) A county shall provide case management services to elders and dependent adults who are determined to be in need of adult protective services for the purpose of bringing about changes in the lives of victims and to provide a safety net to enable victims to protect themselves in the future. Case management services shall include the following, to the extent services are appropriate for the individual:

(1) Investigation of the protection issues, including, but not limited to, social, medical, environmental, physical, emotional, and developmental.

(2) Assessment of the person's concerns and needs on whom the report has been made and the concerns and needs of other members of the family and household.

(3) Analysis of problems and strengths.

(4) Establishment of a service plan for each person on whom the report has been made to alleviate the identified problems.

(5) Client input and acceptance of proposed service plans.

(6) Counseling for clients and significant others to alleviate the identified problems and to implement the service plan.

(7) Stabilizing and linking with community services.

(8) Monitoring and followup.

(9) Reassessments, as appropriate.

(e) To the extent resources are available, each county shall provide emergency shelter in the form of a safe haven or in-home protection for victims. Shelter and care appropriate to the needs of the victim shall be provided for frail and disabled victims who are in need of assistance with activities of daily living.

(f) Each county shall designate an adult protective services agency to establish and maintain multidisciplinary teams including, but not limited to, adult protective services, law enforcement, probation departments, home health care agencies, hospitals, adult protective services staff, the public guardian, private community service agencies, public health agencies, and mental health agencies for the purpose of providing interagency treatment strategies.

(g) Each county shall provide tangible support services, to the extent resources are available, which may include, but not be limited to, emergency food, clothing, repair or replacement of essential appliances, plumbing and electrical repair, blankets, linens, and other household goods, advocacy with utility companies, and emergency response units.

SEC. 27. Any section of any act enacted by the Legislature during the 2004 calendar year that takes effect on or before January 1, 2005, and that amends, amends and renumbers, adds, repeals and adds, or repeals any one or more of the sections affected by this act, with the exception of Assembly Bill 3082, shall prevail over this act, whether this act is enacted prior to, or subsequent to, the enactment of this 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 that is enacted by the Legislature during the 2004 calendar year and takes effect on or before January 1, 2005, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

SEC. 28. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains

costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

O

Senate Bill No. 1234

CHAPTER 700

An act to amend Section 52.1 of the Civil Code, to amend Sections 200 and 220 of the Education Code, to amend Section 12926 of the Government Code, and to amend Sections 190.03, 422.6, 422.7, 422.75, 594.3, 11410, 11413, 13023, 13515.25, and 13519.4 of, to amend and renumber Sections 422.95, 1170.75, and 13873 of, to add Sections 422.77, 422.78, 422.86, 422.89, 422.91, 422.93, 13519.64, and 13519.65 to, to add Chapter 1 (commencing with Section 422.55) to Title 11.6 of Part 1 of, to add a chapter heading to Chapter 2 immediately preceding Section 422.6 of Title 11.6 of Part 1 of, to add Chapter 3 (commencing with Section 422.88) to Title 11.6 of Part 1 of, to repeal Sections 422.76, 13870, and 13871 of, and to repeal and add Section 422.9 of, the Penal Code, relating to crimes.

[Approved by Governor September 22, 2004. Filed with Secretary of State September 22, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1234, Kuehl. Crimes: civil rights.

Existing law provides that no person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because he or she perceives that the other person has one or more of those characteristics. Existing law also provides that no person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or laws of the United States, because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because he or she perceives that the other person has one or more of those characteristics. Existing law requires that any person who violates these provisions be punished by imprisonment in a county jail not to exceed one year, or by a fine not to exceed $5,000, or by both that fine and imprisonment.

This bill would provide that conduct punishable under these provisions that also violates any other provision of law may be charged under all applicable provisions, but may only be punished once, as specified.

Existing law provides, except in the case of a person punished under the above provisions, that any crime that is not made punishable by imprisonment in the state prison shall be punishable by imprisonment in the state prison or in a county jail not to exceed one year, by a fine not to exceed $10,000, or by both that imprisonment and fine, if the crime is committed against the person or property of another for the purpose of intimidating or interfering with that other person's free exercise or enjoyment of any right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the defendant perceives that the other person has one or more of those characteristics, under specified circumstances, including that the crime against property causes damage in excess of $500.

This bill would revise and recast the provisions relating to hate crimes by, among other things, providing a definition for the term "hate crime." This bill would reduce the above property damage amount to $400. Because this bill would change the definition of existing crimes and expand the scope of an existing crime, it would impose a state-mandated local program.

Under existing law, the Commission on Peace Officer Standards and Training is required to establish and keep updated a continuing education classroom training course relating to law enforcement interaction with developmentally disabled and mentally ill persons. The course is required to contain core instruction in specified areas.

This bill would change the term "developmentally disabled and mentally ill persons" to "mentally disabled persons." This bill would include in the course instruction by July 1, 2006, instruction on the fact that the crime was committed in whole or in part because of an actual or perceived disability of the victim is a hate crime. The bill would require the commission, using available funding, to develop by July 1, 2005, a 2-hour telecourse to be made available to all law enforcement agencies in California on crimes against homeless persons and on how to deal effectively and humanely with homeless persons, including homeless persons with disabilities. The telecourse would be required to include information on multimission criminal extremism, as defined.

Existing law requires the commission to develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace

officer but are enrolled in a training academy for law enforcement officers, addressing hate crimes. Existing law requires the course to include instruction in specified areas.

This bill would, in addition, by July 1, 2007, require the course to have instruction in multimission criminal extremism, the special problems inherent in some categories of hate crimes, preparation for, and response to, possible future anti-Arab/Middle Eastern and anti-Islamic hate crimewaves, and any other future hate crimewaves that the Attorney General determines are likely. This bill would require that the commission include in the guidelines a framework and possible content of general order or other formal policy on hate crimes that all state law enforcement agencies shall adopt and local law enforcement agencies would be encouraged to adopt, as specified.

The bill would make other conforming changes.

This bill would incorporate additional changes to Section 422.95 of the Penal Code proposed by AB 2428, contingent upon the prior enactment of that bill.

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.

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

SECTION 1. Section 52.1 of the Civil Code is amended to read:

52.1. (a) If a person or persons, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured. An action brought by the Attorney General, any district attorney, or any city attorney may also seek a civil penalty of twenty-five thousand dollars ($25,000). If this civil penalty is requested, it shall be assessed individually against each person who is determined to have violated this section and the penalty shall be awarded to each individual whose rights under this section are determined to have been violated.

(b) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured.

(c) An action brought pursuant to subdivision (a) or (b) may be filed either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which a person whose conduct complained of resides or has his or her place of business. An action brought by the Attorney General pursuant to subdivision (a) also may be filed in the superior court for any county wherein the Attorney General has an office, and in that case, the jurisdiction of the court shall extend throughout the state.

(d) If a court issues a temporary restraining order or a preliminary or permanent injunction in an action brought pursuant to subdivision (a) or (b), ordering a defendant to refrain from conduct or activities, the order issued shall include the following statement: VIOLATION OF THIS ORDER IS A CRIME PUNISHABLE UNDER SECTION 422.77 OF THE PENAL CODE.

(e) The court shall order the plaintiff or the attorney for the plaintiff to deliver, or the clerk of the court to mail, two copies of any order, extension, modification, or termination thereof granted pursuant to this section, by the close of the business day on which the order, extension, modification, or termination was granted, to each local law enforcement agency having jurisdiction over the residence of the plaintiff and any other locations where the court determines that acts of violence against the plaintiff are likely to occur. Those local law enforcement agencies shall be designated by the plaintiff or the attorney for the plaintiff. Each appropriate law enforcement agency receiving any order, extension, or modification of any order issued pursuant to this section shall serve forthwith one copy thereof upon the defendant. Each appropriate law enforcement agency shall provide to any law enforcement officer responding to the scene of reported violence, information as to the existence of, terms, and current status of, any order issued pursuant to this section.

(f) A court shall not have jurisdiction to issue an order or injunction under this section, if that order or injunction would be prohibited under Section 527.3 of the Code of Civil Procedure.

(g) An action brought pursuant to this section is independent of any other action, remedy, or procedure that may be available to an aggrieved

individual under any other provision of law, including, but not limited to, an action, remedy, or procedure brought pursuant to Section 51.7.

(h) In addition to any damages, injunction, or other equitable relief awarded in an action brought pursuant to subdivision (b), the court may award the petitioner or plaintiff reasonable attorney's fees.

(i) A violation of an order described in subdivision (d) may be punished either by prosecution under Section 422.77 of the Penal Code, or by a proceeding for contempt brought pursuant to Title 5 (commencing with Section 1209) of Part 3 of the Code of Civil Procedure. However, in any proceeding pursuant to the Code of Civil Procedure, if it is determined that the person proceeded against is guilty of the contempt charged, in addition to any other relief, a fine may be imposed not exceeding one thousand dollars ($1,000), or the person may be ordered imprisoned in a county jail not exceeding six months, or the court may order both the imprisonment and fine.

(j) Speech alone is not sufficient to support an action brought pursuant to subdivision (a) or (b), except upon a showing that the speech itself threatens violence against a specific person or group of persons; and the person or group of persons against whom the threat is directed reasonably fears that, because of the speech, violence will be committed against them or their property and that the person threatening violence had the apparent ability to carry out the threat.

(k) No order issued in any proceeding brought pursuant to subdivision (a) or (b) shall restrict the content of any person's speech. An order restricting the time, place, or manner of any person's speech shall do so only to the extent reasonably necessary to protect the peaceable exercise or enjoyment of constitutional or statutory rights, consistent with the constitutional rights of the person sought to be enjoined.

SEC. 2. Section 200 of the Education Code is amended to read:

200. It is the policy of the State of California to afford all persons in public schools, regardless of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, or regardless of any actual or perceived characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, equal rights and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts which are contrary to that policy and to provide remedies therefor.

SEC. 3. Section 220 of the Education Code is amended to read:

220. No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, mental or physical disability, or any actual or perceived characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code in any program or activity conducted by an

educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.

SEC. 4. Section 12926 of the Government Code is amended to read:

12926. As used in this part in connection with unlawful practices, unless a different meaning clearly appears from the context:

(a) "Affirmative relief" or "prospective relief" includes the authority to order reinstatement of an employee, awards of backpay, reimbursement of out-of-pocket expenses, hiring, transfers, reassignments, grants of tenure, promotions, cease and desist orders, posting of notices, training of personnel, testing, expunging of records, reporting of records, and any other similar relief that is intended to correct unlawful practices under this part.

(b) "Age" refers to the chronological age of any individual who has reached his or her 40th birthday.

(c) "Employee" does not include any individual employed by his or her parents, spouse, or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(d) "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:

"Employer" does not include a religious association or corporation not organized for private profit.

(e) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(f) "Essential functions" means the fundamental job duties of the employment position the individual with a disability holds or desires. "Essential functions" does not include the marginal functions of the position.

(1) A job function may be considered essential for any of several reasons, including, but not limited to, any one or more of the following:

(A) The function may be essential because the reason the position exists is to perform that function.

(B) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed.

(C) The function may be highly specialized, so that the incumbent in the position is hired for his or her expertise or ability to perform the function.

(2) Evidence of whether a particular function is essential includes, but is not limited to, the following:

(A) The employer's judgment as to which functions are essential.

(B) Written job descriptions prepared before advertising or interviewing applicants for the job.

(C) The amount of time spent on the job performing the function.

(D) The consequences of not requiring the incumbent to perform the function.

(E) The terms of a collective bargaining agreement.

(F) The work experiences of past incumbents in the job.

(G) The current work experience of incumbents in similar jobs.

(g) "Labor organization" includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(h) "Medical condition" means either of the following:

(1) Any health impairment related to or associated with a diagnosis of cancer or a record or history of cancer.

(2) Genetic characteristics. For purposes of this section, "genetic characteristics" means either of the following:

(A) Any scientifically or medically identifiable gene or chromosome, or combination or alteration thereof, that is known to be a cause of a disease or disorder in a person or his or her offspring, or that is determined to be associated with a statistically increased risk of development of a disease or disorder, and that is presently not associated with any symptoms of any disease or disorder.

(B) Inherited characteristics that may derive from the individual or family member, that are known to be a cause of a disease or disorder in a person or his or her offspring, or that are determined to be associated with a statistically increased risk of development of a disease or disorder, and that are presently not associated with any symptoms of any disease or disorder.

(i) "Mental disability" includes, but is not limited to, all of the following:

(1) Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:

(A) "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(B) A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.

(C) "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.

(2) Any other mental or psychological disorder or condition not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any mental condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph (1) or (2).

"Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(j) "On the bases enumerated in this part" means or refers to discrimination on the basis of one or more of the following: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.

(k) "Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits a major life activity. For purposes of this section:

(i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

(6) "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

(*l*) Notwithstanding subdivisions (i) and (k), if the definition of "disability" used in the Americans with Disabilities Act of 1990 (Public Law 101-336) would result in broader protection of the civil rights of individuals with a mental disability or physical disability, as defined in subdivision (i) or (k), or would include any medical condition not included within those definitions, then that broader protection or coverage shall be deemed incorporated by reference into, and shall prevail over conflicting provisions of, the definitions in subdivisions (i) and (k).

(m) "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

(n) "Reasonable accommodation" may include either of the following:

(1) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities.

(2) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(o) "Religious creed," "religion," "religious observance," "religious belief," and "creed" include all aspects of religious belief, observance, and practice.

(p) "Sex" includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. "Sex" also includes, but is not limited to, a person's gender, as defined in Section 422.56 of the Penal Code.

(q) "Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

(r) "Supervisor" means any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(s) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the following factors:

(1) The nature and cost of the accommodation needed.

(2) The overall financial resources of the facilities involved in the provision of the reasonable accommodations, the number of persons employed at the facility, and the effect on expenses and resources or the impact otherwise of these accommodations upon the operation of the facility.

(3) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of employees, and the number, type, and location of its facilities.

(4) The type of operations, including the composition, structure, and functions of the workforce of the entity.

(5) The geographic separateness, administrative, or fiscal relationship of the facility or facilities.

SEC. 5. Section 190.03 of the Penal Code is amended to read:

190.03. (a) A person who commits first-degree murder that is a hate crime shall be punished by imprisonment in the state prison for life without the possibility of parole.

(b) The term authorized by subdivision (a) shall not apply unless the allegation is charged in the accusatory pleading and admitted by the defendant or found true by the trier of fact. The court shall not strike the allegation, except in the interest of justice, in which case the court shall state its reasons in writing for striking the allegation.

(c) For the purpose of this section, "hate crime" has the same meaning as in Section 422.55.

(d) Nothing in this section shall be construed to prevent punishment instead pursuant to any other provision of law that imposes a greater or more severe punishment.

SEC. 6. Chapter 1 (commencing with Section 422.55) is added to Title 11.6 of Part 1 of the Penal Code, to read:

CHAPTER 1. DEFINITIONS

422.55. For purposes of this title, and for purposes of all other state law unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:

(a) "Hate crime" means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:

(1) Disability.

(2) Gender.

(3) Nationality.

(4) Race or ethnicity.

(5) Religion.

(6) Sexual orientation.

(7) Association with a person or group with one or more of these actual or perceived characteristics.

(b) "Hate crime" includes, but is not limited to, a violation of Section 422.6.

422.56. For purposes of this title, the following definitions shall apply:

(a) "Association with a person or group with these actual or perceived characteristics" includes advocacy for, identification with, or being on the ground owned or rented by, or adjacent to, any of the following: a community center, educational facility, family, individual, office, meeting hall, place of worship, private institution, public agency, library, or other entity, group, or person that has, or is identified with people who have, one or more of those characteristics listed in the definition of "hate crime" under paragraphs 1 to 6, inclusive, of subdivision (a) of Section 422.55.

(b) "Disability" includes mental disability and physical disability as defined in Section 12926 of the Government Code.

(c) "Gender" means sex, and includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

(d) "In whole or in part because of" means that the bias motivation must be a cause in fact of the offense, whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must

be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that the crime would not have been committed but for the actual or perceived characteristic. This subdivision does not constitute a change in, but is declaratory of, existing law under In re M.S.(1995) 10 Cal. 4th 698 and People v. Superior Court (Aishman)(1995) 10 Cal. 4th 735.

(e) "Nationality" includes citizenship, country of origin, and national origin.

(f) "Race or ethnicity" includes ancestry, color, and ethnic background.

(g) "Religion" includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

(h) "Sexual orientation" means heterosexuality, homosexuality, or bisexuality.

(i) "Victim" includes, but is not limited to, a community center, educational facility, entity, family, group, individual, office, meeting hall, person, place of worship, private institution, public agency, library, or other victim or intended victim of the offense.

422.57. For purposes this code, unless an explicit provision of law or the context clearly requires a different meaning, "gender" has the same meaning as in Section 422.56.

SEC. 7. A chapter heading is added to Chapter 2 immediately preceding Section 422.6 of Title 11.6 of Part 1 of the Penal Code, to read:

CHAPTER 2. CRIMES AND PENALTIES

SEC. 8. Section 422.6 of the Penal Code is amended to read:

422.6. (a) No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in subdivision (a) of Section 422.55.

(b) No person, whether or not acting under color of law, shall knowingly deface, damage, or destroy the real or personal property of any other person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the Constitution or laws of this state or by the Constitution or laws of the United States, in whole or in part because of one or more of the actual or perceived characteristics of the victim listed in subdivision (a) of Section 422.55.

(c) Any person convicted of violating subdivision (a) or (b) shall be punished by imprisonment in a county jail not to exceed one year, or by a fine not to exceed five thousand dollars ($5,000), or by both the above imprisonment and fine, and the court shall order the defendant to perform a minimum of community service, not to exceed 400 hours, to be performed over a period not to exceed 350 days, during a time other than his or her hours of employment or school attendance. However, no person may be convicted of violating subdivision (a) based upon speech alone, except upon a showing that the speech itself threatened violence against a specific person or group of persons and that the defendant had the apparent ability to carry out the threat.

(d) Conduct that violates this and any other provision of law, including, but not limited to, an offense described in Article 4.5 (commencing with Section 11410) of Chapter 3 of Title 1 of Part 4, may be charged under all applicable provisions. However, an act or omission punishable in different ways by this section and other provisions of law shall not be punished under more than one provision, and the penalty to be imposed shall be determined as set forth in Section 654.

SEC. 9. Section 422.7 of the Penal Code is amended to read:

422.7. Except in the case of a person punished under Section 422.6, any hate crime that is not made punishable by imprisonment in the state prison shall be punishable by imprisonment in the state prison or in a county jail not to exceed one year, by a fine not to exceed ten thousand dollars ($10,000), or by both that imprisonment and fine, if the crime is committed against the person or property of another for the purpose of intimidating or interfering with that other person's free exercise or enjoyment of any right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States, under any of the following circumstances, which shall be charged in the accusatory pleading:

(a) The crime against the person of another either includes the present ability to commit a violent injury or causes actual physical injury.

(b) The crime against property causes damage in excess of four hundred dollars ($400).

(c) The person charged with a crime under this section has been convicted previously of a violation of subdivision (a) or (b) of Section 422.6, or has been convicted previously of a conspiracy to commit a crime described in subdivision (a) or (b) of Section 422.6.

SEC. 10. Section 422.75 of the Penal Code is amended to read:

422.75. (a) Except in the case of a person punished under Section 422.7, a person who commits a felony that is a hate crime or attempts to commit a felony that is a hate crime, shall receive an additional term of one, two, or three years in the state prison, at the court's discretion.

(b) Except in the case of a person punished under Section 422.7 or subdivision (a) of this section, any person who commits a felony that is a hate crime, or attempts to commit a felony that is a hate crime, and who voluntarily acted in concert with another person, either personally or by aiding and abetting another person, shall receive an additional two, three, or four years in the state prison, at the court's discretion.

(c) For the purpose of imposing an additional term under subdivision (a) or (b), it shall be a factor in aggravation that the defendant personally used a firearm in the commission of the offense. Nothing in this subdivision shall preclude a court from also imposing a sentence enhancement pursuant to Section 12022.5, 12022.53, or 12022.55, or any other law.

(d) A person who is punished pursuant to this section also shall receive an additional term of one year in the state prison for each prior felony conviction on charges brought and tried separately in which it was found by the trier of fact or admitted by the defendant that the crime was a hate crime. This additional term shall only apply where a sentence enhancement is not imposed pursuant to Section 667 or 667.5.

(e) Any additional term authorized by this section shall not be imposed unless the allegation is charged in the accusatory pleading and admitted by the defendant or found to be true by the trier of fact.

(f) Any additional term imposed pursuant to this section shall be in addition to any other punishment provided by law.

(g) Notwithstanding any other provision of law, the court may strike any additional term imposed by this section if the court determines that there are mitigating circumstances and states on the record the reasons for striking the additional punishment.

SEC. 11. Section 422.76 of the Penal Code is repealed.

SEC. 12. Section 422.77 is added to the Penal Code, to read:

422.77. (a) Any willful and knowing violation of any order issued pursuant to subdivision (a) or (b) of Section 52.1 of the Civil Code shall be a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

(b) A person who has previously been convicted one or more times of violating an order issued pursuant to subdivision (a) or (b) of Section 52.1 of the Civil Code upon charges separately brought and tried shall be imprisoned in the county jail for not more than one year. Subject to the discretion of the court, the prosecution shall have the opportunity to present witnesses and relevant evidence at the time of the sentencing of a defendant pursuant to this subdivision.

(c) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to Section 52.1 of the Civil Code.

(d) The court may order a defendant who is convicted of a hate crime to perform a minimum of community service, not to exceed 400 hours, to be performed over a period not to exceed 350 days, during a time other than his or her hours of employment or school attendance.

SEC. 13. Section 422.78 is added to the Penal Code, to read:

422.78. The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to this title or Section 52.1 of the Civil Code.

SEC. 14. Section 422.86 is added to the Penal Code, to read:

422.86. (a) It is the public policy of this state that the principal goals of sentencing for hate crimes, are the following:

(1) Punishment for the hate crimes committed.

(2) Crime and violence prevention, including prevention of recidivism and prevention of crimes and violence in prisons and jails.

(3) Restorative justice for the immediate victims of the hate crimes and for the classes of persons terrorized by the hate crimes.

(b) The Judicial Council shall develop a rule of court guiding hate crime sentencing to implement the policy in subdivision (a). In developing the rule of court, the council shall consult experts including organizations representing hate crime victims.

SEC. 15. Chapter 3 (commencing with Section 422.88) is added to Title 11.6 of Part 1 of the Penal Code, to read:

CHAPTER 3. GENERAL PROVISIONS

422.88. (a) The court in which a criminal proceeding stemming from a hate crime or alleged hate crime is filed shall take all actions reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of the alleged victim, or of a person who is a victim of, or at risk of becoming a victim of, a hate crime.

(b) Restraining orders issued pursuant to subdivision (a) may include provisions prohibiting or restricting the photographing of a person who is a victim of, or at risk of becoming a victim of, a hate crime when reasonably required to safeguard the health, safety, or privacy of that person.

SEC. 16. Section 422.89 is added to the Penal Code, to read:

422.89. It is the intent of the Legislature to encourage counties, cities, law enforcement agencies, and school districts to establish education and training programs to prevent violations of civil rights and hate crimes and to assist victims.

SEC. 17. Section 422.9 of the Penal Code is repealed.

SEC. 18. Section 422.9 is added to the Penal Code, to read:

422.9. All state and local agencies shall use the definition of "hate crime" set forth in subdivision (a) of Section 422.55 exclusively, except as other explicit provisions of state or federal law may require otherwise.

SEC. 19. Section 422.91 is added to the Penal Code, to read:

422.91. The Department of Corrections and the California Youth Authority, subject to available funding, shall do each of the following:

(a) Cooperate fully and participate actively with federal, state, and local law enforcement agencies and community hate crime prevention and response networks and other anti-hate groups concerning hate crimes and gangs.

(b) Strive to provide inmates with safe environments in which they are not pressured to join gangs or hate groups and do not feel a need to join them in self-defense.

SEC. 20. Section 422.93 is added to the Penal Code, to read:

422.93. (a) It is the public policy of this state to protect the public from crime and violence by encouraging all persons who are victims of or witnesses to crimes, or who otherwise can give evidence in a criminal investigation, to cooperate with the criminal justice system and not to penalize these persons for being victims or for cooperating with the criminal justice system.

(b) Whenever an individual who is a victim of or witness to a hate crime, or who otherwise can give evidence in a hate crime investigation, is not charged with or convicted of committing any crime under state law, a peace officer may not detain the individual exclusively for any actual or suspected immigration violation or report or turn the individual over to federal immigration authorities.

SEC. 21. Section 422.95 of the Penal Code is amended and renumbered to read:

422.85. (a) In the case of any person who is convicted of any offense defined in Section 302, 423.2, 594.3, 11411, 11412, or 11413, or for any hate crime, the court may order that the defendant be required to do one or all of the following as a condition of probation:

(1) Complete a class or program on racial or ethnic sensitivity, or other similar training in the area of civil rights, or a one-year counseling program intended to reduce the tendency toward violent and anti-social behavior if that class, program, or training is available and was developed or authorized by the court or local agencies in cooperation with organizations serving the affected community.

(2) Make payments or other compensation to a community-based program or local agency that provides services to victims of hate violence.

(3) Be required to reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's acts.

(b) Any payments or other compensation ordered under this section shall be in addition to restitution payments required under Section 1203.04, and shall be made only after that restitution is paid in full.

SEC. 21.1. Section 422.95 of the Penal Code is amended and renumbered to read:

422.85. (a) In the case of any person who is convicted of any offense against the person or property of another individual, private institution, or public agency, committed because of the victim's actual or perceived race, color, ethnicity, religion, nationality, country of origin, ancestry, disability, gender, or sexual orientation, including, but not limited to offenses defined in Section 302, 423.2, 594.3, 11411, 11412, or 11413, or for any hate crime, the court, absent compelling circumstances stated on the record, shall make an order protecting the victim, or known immediate family or domestic partner of the victim, from further acts of violence, threats, stalking, or harassment by the defendant, including any stay-away conditions the court deems appropriate, and shall make obedience of that order a condition of the defendant's probation. In these cases the court may also order that the defendant be required to do one or more of the following as a condition of probation:

(1) Complete a class or program on racial or ethnic sensitivity, or other similar training in the area of civil rights, or a one-year counseling program intended to reduce the tendency toward violent and antisocial behavior if that class, program, or training is available and was developed or authorized by the court or local agencies in cooperation with organizations serving the affected community.

(2) Make payments or other compensation to a community-based program or local agency that provides services to victims of hate violence.

(3) Reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's acts.

(b) Any payments or other compensation ordered under this section shall be in addition to restitution payments required under Section 1203.04, and shall be made only after that restitution is paid in full.

SEC. 22. Section 594.3 of the Penal Code is amended to read:

594.3. (a) Any person who knowingly commits any act of vandalism to a church, synagogue, mosque, temple, building owned and occupied by a religious educational institution, or other place primarily used as a place of worship where religious services are regularly

conducted or a cemetery is guilty of a crime punishable by imprisonment in the state prison or by imprisonment in the county jail for not exceeding one year.

(b) Any person who knowingly commits any act of vandalism to a church, synagogue, mosque, temple, building owned and occupied by a religious educational institution, or other place primarily used as a place of worship where religious services are regularly conducted or a cemetery, which is shown to have been a hate crime and to have been committed for the purpose of intimidating and deterring persons from freely exercising their religious beliefs, is guilty of a felony punishable by imprisonment in the state prison.

(c) For purposes of this section, "hate crime" has the same meaning as Section 422.55.

SEC. 23. Section 1170.75 of the Penal Code is amended and renumbered to read:

422.76. Except where the court imposes additional punishment under Section 422.75 or in a case in which the person has been convicted of an offense subject to Section 1170.8, the fact that a person committed a felony or attempted to commit a felony that is a hate crime shall be considered a circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

SEC. 24. Section 11410 of the Penal Code is amended to read:

11410. (a) The Legislature finds and declares that it is the right of every person regardless of actual or perceived disability, gender, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group of these actual or perceived characteristics, to be secure and protected from fear, intimidation, and physical harm caused by the activities of violent groups and individuals. It is not the intent of this chapter to interfere with the exercise of rights protected by the Constitution of the United States. The Legislature recognizes the constitutional right of every citizen to harbor and express beliefs on any subject whatsoever and to associate with others who share similar beliefs. The Legislature further finds however, that the advocacy of unlawful violent acts by groups against other persons or groups under circumstances where death or great bodily injury is likely to result is not constitutionally protected, poses a threat to public order and safety and should be subject to criminal and civil sanctions.

(b) For purposes of this section, the terms "disability," "gender," "nationality," "race or ethnicity," "religion," "sexual orientation," and "association with a person or group with these actual or perceived characteristics" have the same meaning as in Section 422.55 and 422.56.

SEC. 25. Section 11413 of the Penal Code is amended to read:

11413. (a) Any person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive, or who commits arson, in or about any of the places listed in subdivision (b), for the purpose of terrorizing another or in reckless disregard of terrorizing another is guilty of a felony, and shall be punished by imprisonment in the state prison for three, five, or seven years, and a fine not exceeding ten thousand dollars ($10,000).

(b) Subdivision (a) applies to the following places:

(1) Any health facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or any place where medical care is provided by a licensed health care professional.

(2) Any church, temple, synagogue, mosque, or other place of worship.

(3) The buildings, offices, and meeting sites of organizations that counsel for or against abortion or among whose major activities are lobbying, publicizing, or organizing with respect to public or private issues relating to abortion.

(4) Any place at which a lecture, film-showing, or other private meeting or presentation that educates or propagates with respect to abortion practices or policies, whether on private property or at a meeting site authorized for specific use by a private group on public property, is taking place.

(5) Any bookstore or public or private library.

(6) Any building or facility designated as a courthouse.

(7) The home or office of a judicial officer.

(8) Any building or facility regularly occupied by county probation department personnel in which the employees perform official duties of the probation department.

(9) Any private property, if the property was targeted in whole or in part because of any of the actual or perceived characteristics of the owner or occupant of the property listed in subdivision (a) of Section 422.55.

(10) Any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive.

(c) As used in this section, "judicial officer" means a magistrate, judge, justice, commissioner, referee, or any person appointed by a court to serve in one of these capacities, of any state or federal court located in this state.

(d) As used in this section, "terrorizing" means to cause a person of ordinary emotions and sensibilities to fear for personal safety.

(e) Nothing in this section shall be construed to prohibit the prosecution of any person pursuant to Section 12303.3 or any other provision of law in lieu of prosecution pursuant to this section.

SEC. 26. Section 13023 of the Penal Code is amended to read:

13023. (a) Subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to hate crimes. This information may include any general orders or formal policies on hate crimes and the hate crime pamphlet required pursuant to Section 422.92.

(b) On or before July 1 of each year, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

(c) For purposes of this section, "hate crime" has the same meaning as in Section 422.55.

SEC. 27. Section 13515.25 of the Penal Code is amended to read:

13515.25. (a) By July 1, 2006, the Commission on Peace Officer Standards and Training shall establish and keep updated a continuing education classroom training course relating to law enforcement interaction with mentally disabled persons. The training course shall be developed by the commission in consultation with appropriate community, local, and state organizations and agencies that have expertise in the area of mental illness and developmental disability, and with appropriate consumer and family advocate groups. In developing the course, the commission shall also examine existing courses certified by the commission that relate to mentally disabled persons. The commission shall make the course available to law enforcement agencies in California.

(b) The course described in subdivision (a) shall consist of classroom instruction and shall utilize interactive training methods to ensure that the training is as realistic as possible. The course shall include, at a minimum, core instruction in all of the following:

(1) The cause and nature of mental illnesses and developmental disabilities.

(2) How to identify indicators of mental disability and how to respond appropriately in a variety of common situations.

(3) Conflict resolution and de-escalation techniques for potentially dangerous situations involving mentally disabled persons.

(4) Appropriate language usage when interacting with mentally disabled persons.

(5) Alternatives to lethal force when interacting with potentially dangerous mentally disabled persons.

(6) Community and state resources available to serve mentally disabled persons and how these resources can be best utilized by law enforcement to benefit the mentally disabled community.

(7) The fact that a crime committed in whole or in part because of an actual or perceived disability of the victim is a hate crime punishable under Title 11.6 (commencing with Section 422.55) of Part 1.

(c) The commission shall submit a report to the Legislature by October 1, 2004, that shall include all of the following:

(1) A description of the process by which the course was established, including a list of the agencies and groups that were consulted.

(2) Information on the number of law enforcement agencies that utilized, and the number of officers that attended, the course or other courses certified by the commission relating to mentally disabled persons from July 1, 2001, to July 1, 2003, inclusive.

(3) Information on the number of law enforcement agencies that utilized, and the number of officers that attended, courses certified by the commission relating to mentally disabled persons from July 1, 2000, to July 1, 2001, inclusive.

(4) An analysis of the Police Crisis Intervention Training (CIT) Program used by the San Francisco and San Jose Police Departments, to assess the training used in these programs and compare it with existing courses offered by the commission in order to evaluate the adequacy of mental disability training available to local law enforcement officers.

(d) The Legislature encourages law enforcement agencies to include the course created in this section, and any other course certified by the commission relating to mentally disabled persons, as part of their advanced officer training program.

(e) It is the intent of the Legislature to reevaluate, on the basis of its review of the report required in subdivision (c), the extent to which law enforcement officers are receiving adequate training in how to interact with mentally disabled persons.

SEC. 28. Section 13519.4 of the Penal Code is amended to read:

13519.4. (a) The commission shall develop and disseminate guidelines and training for all law enforcement officers in California as described in subdivision (a) of Section 13510 and who adhere to the standards approved by the commission, on the racial and cultural differences among the residents of this state. The course or courses of instruction and the guidelines shall stress understanding and respect for racial and cultural differences, and development of effective, noncombative methods of carrying out law enforcement duties in a racially and culturally diverse environment.

(b) The course of basic training for law enforcement officers shall include adequate instruction on racial and cultural diversity in order to foster mutual respect and cooperation between law enforcement and members of all racial and cultural groups. In developing the training, the commission shall consult with appropriate groups and individuals

having an interest and expertise in the field of cultural awareness and diversity.

(c) For the purposes of this section the following shall apply:

(1) "Disability," "gender," "nationality," "religion," and "sexual orientation" have the same meaning as in Section 422.55.

(2) "Culturally diverse" and "cultural diversity" include, but are not limited to, disability, gender, nationality, religion, and sexual orientation issues.

(3) "Racial" has the same meaning as "race or ethnicity" in Section 422.55.

(d) The Legislature finds and declares as follows:

(1) Racial profiling is a practice that presents a great danger to the fundamental principles of a democratic society. It is abhorrent and cannot be tolerated.

(2) Motorists who have been stopped by the police for no reason other than the color of their skin or their apparent nationality or ethnicity are the victims of discriminatory practices.

(3) It is the intent of the Legislature in enacting the changes to Section 13519.4 of the Penal Code made by the act that added this subdivision that more than additional training is required to address the pernicious practice of racial profiling and that enactment of this bill is in no way dispositive of the issue of how the state should deal with racial profiling.

(4) The working men and women in California law enforcement risk their lives every day. The people of California greatly appreciate the hard work and dedication of law enforcement officers in protecting public safety. The good name of these officers should not be tarnished by the actions of those few who commit discriminatory practices.

(e) "Racial profiling," for purposes of this section, is the practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped.

(f) A law enforcement officer shall not engage in racial profiling.

(g) Every law enforcement officer in this state shall participate in expanded training as prescribed and certified by the Commission on Peace Officers Standards and Training.

(h) The curriculum shall utilize the Tools for Tolerance for Law Enforcement Professionals framework and shall include and examine the patterns, practices, and protocols that make up racial profiling. This training shall prescribe patterns, practices, and protocols that prevent racial profiling. In developing the training, the commission shall consult with appropriate groups and individuals having an interest and expertise in the field of racial profiling. The course of instruction shall include, but

not be limited to, adequate consideration of each of the following subjects:

(1) Identification of key indices and perspectives that make up cultural differences among residents in a local community.

(2) Negative impact of biases, prejudices, and stereotyping on effective law enforcement, including examination of how historical perceptions of discriminatory enforcement practices have harmed police-community relations.

(3) The history and the role of the civil rights movement and struggles and their impact on law enforcement.

(4) Specific obligations of officers in preventing, reporting, and responding to discriminatory or biased practices by fellow officers.

(5) Perspectives of diverse, local constituency groups and experts on particular cultural and police-community relations issues in a local area.

(i) Once the initial basic training is completed, each law enforcement officer in California as described in subdivision (a) of Section 13510 who adheres to the standards approved by the commission shall be required to complete a refresher course every five years thereafter, or on a more frequent basis if deemed necessary, in order to keep current with changing racial and cultural trends.

(j) The Legislative Analyst shall conduct a study of the data being voluntarily collected by those jurisdictions that have instituted a program of data collection with regard to racial profiling, including, but not limited to, the California Highway Patrol, the City of San Jose, and the City of San Diego, both to ascertain the incidence of racial profiling and whether data collection serves to address and prevent such practices, as well as to assess the value and efficacy of the training herein prescribed with respect to preventing local profiling. The Legislative Analyst may prescribe the manner in which the data is to be submitted and may request that police agencies collecting such data submit it in the requested manner. The Legislative Analyst shall provide to the Legislature a report and recommendations with regard to racial profiling by July 1, 2002.

SEC. 29. Section 13519.6 of the Penal Code is amended to read:

13519.6. (a) The commission shall develop guidelines and a course of instruction and training for law enforcement officers who are employed as peace officers, or who are not yet employed as a peace officer but are enrolled in a training academy for law enforcement officers, addressing hate crimes. "Hate crimes," for purposes of this section, has the same meaning as in Section 422.55.

(b) The course shall make maximum use of audio and video communication and other simulation methods and shall include instruction in each of the following:

(1) Indicators of hate crimes.

(2) The impact of these crimes on the victim, the victim's family, and the community, and the assistance and compensation available to victims.

(3) Knowledge of the laws dealing with hate crimes and the legal rights of, and the remedies available to, victims of hate crimes.

(4) Law enforcement procedures, reporting, and documentation of hate crimes.

(5) Techniques and methods to handle incidents of hate crimes in a noncombative manner.

(6) Multimission criminal extremism, which means the nexus of certain hate crimes, antigovernment extremist crimes, anti-reproductive-rights crimes, and crimes committed in whole or in part because of the victims' actual or perceived homelessness.

(7) The special problems inherent in some categories of hate crimes, including gender-bias crimes, disability-bias crimes, including those committed against homeless persons with disabilities, anti-immigrant crimes, and anti-Arab and anti-Islamic crimes, and techniques and methods to handle these special problems.

(8) Preparation for, and response to, possible future anti-Arab/Middle Eastern and anti-Islamic hate crimewaves, and any other future hate crime waves that the Attorney General determines are likely.

(c) The guidelines developed by the commission shall incorporate the procedures and techniques specified in subdivision (b), and shall include a framework and possible content of a general order or other formal policy on hate crimes that all state law enforcement agencies shall adopt and the commission shall encourage all local law enforcement agencies to adopt. The elements of the framework shall include, but not be limited to, the following:

(1) A message from the law enforcement agency's chief executive officer to the agency's officers and staff concerning the importance of hate crime laws and the agency's commitment to enforcement.

(2) The definition of "hate crime" in Section 422.55.

(3) References to hate crime statutes including Section 422.6.

(4) A title-by-title specific protocol that agency personnel are required to follow, including, but not limited to, the following:

(A) Preventing and preparing for likely hate crimes by, among other things, establishing contact with persons and communities who are likely targets, and forming and cooperating with community hate crime prevention and response networks.

(B) Responding to reports of hate crimes, including reports of hate crimes committed under the color of authority.

(C) Accessing assistance, by, among other things, activating the Department of Justice hate crime rapid response protocol when necessary.

(D) Providing victim assistance and followup, including community followup.

(E) Reporting.

(d) (1) The course of training leading to the basic certificate issued by the commission shall include the course of instruction described in subdivision (a).

(2) Every state law enforcement and correctional agency, and every local law enforcement and correctional agency to the extent that this requirement does not create a state-mandated local program cost, shall provide its peace officers with the basic course of instruction as revised pursuant to the act that amends this section in the 2003–04 session of the Legislature, beginning with officers who have not previously received the training. Correctional agencies shall adapt the course as necessary.

(e) As used in this section, "peace officer" means any person designated as a peace officer by Section 830.1 or 830.2.

(f) The additional training requirements imposed under this section by legislation adopted in 2004 shall be implemented by July 1, 2007.

SEC. 30. Section 13519.64 is added to the Penal Code, to read:

13519.64. (a) The Legislature finds and declares that research, including "Special Report to the Legislature on Senate Resolution 18: Crimes Committed Against Homeless Persons" by the Department of Justice and "Hate, Violence, and Death: A Report on Hate Crimes Against People Experiencing Homelessness from 1999–2002" by the National Coalition for the Homeless demonstrate that California has had serious and unaddressed problems of crime against homeless persons, including homeless persons with disabilities.

(b) (1) By July 1, 2005, the Commission on Peace Officer Standards and Training, using available funding, shall develop a two-hour telecourse to be made available to all law enforcement agencies in California on crimes against homeless persons and on how to deal effectively and humanely with homeless persons, including homeless persons with disabilities. The telecourse shall include information on multimission criminal extremism, as defined in Section 13519.6. In developing the telecourse, the commission shall consult subject-matter experts including, but not limited to, homeless and formerly homeless persons in California, service providers and advocates for homeless persons in California, experts on the disabilities that homeless persons commonly suffer, the California Council of Churches, the National Coalition for the Homeless, the Senate Office of Research, and the Criminal Justice Statistics Center of the Department of Justice.

(2) Every state law enforcement agency, and every local law enforcement agency, to the extent that this requirement does not create a state-mandated local program cost, shall provide the telecourse to its peace officers.

SEC. 31. Section 13870 of the Penal Code is repealed.

SEC. 32. Section 13871 of the Penal Code is repealed.

SEC. 33. Section 13873 of the Penal Code is amended and renumbered to read:

422.92. (a) Every state and local law enforcement agency in this state shall make available a brochure on hate crimes to victims of these crimes and the public.

(b) The Department of Fair Employment and Housing shall provide existing brochures, making revisions as needed, to local law enforcement agencies upon request for reproduction and distribution to victims of hate crimes and other interested parties. In carrying out these responsibilities, the department shall consult the Fair Employment and Housing Commission, the Department of Justice, and the Victim Compensation and Government Claims Board.

SEC. 34. Section 21.1 of this bill incorporates amendments to Section 422.95 of the Penal Code proposed by both this bill and AB 2428. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 422.95 of the Penal Code, and (3) this bill is enacted after AB 2428, in which case Section 21 of this bill shall not become operative.

SEC. 35. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

RESOLUTION CHAPTER 147

Senate Concurrent Resolution No. 64—Relative to crime statistics.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, At the present time, there is no systematic collection of the ages of crime victims; and

WHEREAS, In order to better understand the problem of crime as it affects senior citizens, systematic collection of this information on a statewide basis is essential; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That local law enforcement officials are requested to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older; and be it further

Resolved, That the Department of Justice is requested to solicit and collect information from local law enforcement agencies concerning the ages of victims of crime and to incorporate that information in its crime statistic reporting system; and be it further

Resolved, That the Secretary of the Senate send copies of this resolution to the Attorney General.

RESOLUTION CHAPTER 148

Senate Concurrent Resolution No. 86—Relative to the John "Chuck" Erreca Safety Roadside Rest.

[Filed with Secretary of State August 30, 1982.]

WHEREAS, John "Chuck" Erreca was born on December 29, 1910, in the City of Los Banos, in the County of Merced, the son of immigrant French Basques; and

WHEREAS, He grew up in the "American tradition" of hard work on his father's ranch; and

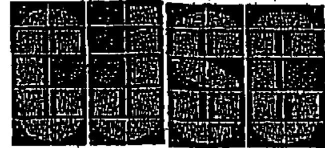
WHEREAS, He attended public schools in Los Banos, and graduated from St. Mary's College, majoring in Economics; and

WHEREAS, He returned to the ranch near Los Banos and became a successful farmer and cattle rancher; and

WHEREAS, His success in farming and ranching enabled him to participate in civic affairs and serve without salary for 23 years on the Los Banos City Council, 17 years of which he was the Mayor of the City; and

WHEREAS, He served as an officer and president of the Central Valley Division of the League of California Cities from 1951–1953; and

WHEREAS, In 1953 "Chuck" Erreca was elected to the Board of



CRIMINAL STATISTICS

REPORTING REQUIREMENTS

CALIFORNIA

DEPARTMENT OF JUSTICE

CRIMINAL JUSTICE

STATISTICS CENTER

DOJ Reports Amended
Sacramento County and City of Newport Beach
Section 7: Documentation

March 2000

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Introduction

This document provides general guidelines to law enforcement agencies, District Attorneys, Public Defenders, and Probation Departments regarding their reporting requirements to the Department of Justice's Criminal Justice Statistics Center (CJSC). For each reporting requirement there is a brief description of what data is collected (introduction), which agencies are required to report the data (who), the code section(s) that require reporting (why), the due date of the report (when), and the form or alternative method required to be used to report the data (how).

For any additional information or clarification, please write or call our Special Requests Unit. They can be reached by telephone, FAX or e-mail:

California Department of Justice Telephone: (916) 227-3509

Division of Criminal Justice Information Services Fax: (916) 227-0427

Criminal Justice Statistics Center E-mail: CJSC@hdcdojnet.state.ca.us

Special Requests Unit

4949 Broadway, Room E-203

Sacramento, CA 95820

ARRESTS

Introduction

Arrest information is reported to the Department of Justice (DOJ), and is maintained in the Monthly Arrest and Citation Register data base. This data base contains information on felony and misdemeanor level arrests for adults and juveniles. Data elements include name, race/ethnicity, date of birth, sex, date of arrest, offense level, offense type, status of the offense, and law enforcement disposition. This information is used in publishing *Crime and Delinquency in California* and the *Criminal Justice Profile* series. Age, sex, race/ethnicity, and offense information is forwarded to the FBI for publication in *Crime in the United States*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his accredited agent, access to statistical data for the purpose of carrying out this title.

PC 13021. Local law enforcement agencies shall report to the Department of Justice such information as the Attorney General may by regulation require relative to misdemeanor violations of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 of this code.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form JUS 750, or electronically.

CRIMES AND CLEARANCES

Introduction

Crimes and clearance information is to be reported to DOJ to provide statistical data on the offenses of criminal homicide, forcible rape, robbery, assault, burglary, larceny-theft, and motor vehicle theft. The data is to include the number of actual offenses as well as the number of clearances. Supplemental data are also collected on the nature of crime and the value of property stolen and recovered. This information is forwarded to the FBI for publication in *Crime in the United States*. Data are also published in *Crime and Delinquency in California* and the *Criminal Justice Profile* Series.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form FBI 4-927 (Return A) and JUS 729, or electronically.

ARSON

Introduction

Arson data is to be reported to DOJ to provide information on the type of arson, the number of actual offenses, the number of clearances, and the estimated dollar value of property damaged. This data is published in *Crime and Delinquency in California* and the *Criminal Justice Profile* series.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form FBI 1-725, or electronically.

HOMICIDES

Introduction

Homicide data is to be reported to DOJ to provide information on the number of homicides, the victim/offender relationship, the day and month of the homicide, location, type of weapon used, and precipitating event. Homicide data are published in *Homicide in California*, *Crime and Delinquency in California*, and the *Criminal Justice Profile* series. Data are also reported to the FBI for publication in *Crime in the United States*.

Homicides (continued)

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13014. (b) Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime, including age, gender, race, and ethnic background

PC 13022. Each sheriff and chief of police shall annually furnish the Department of Justice, on a form prescribed by the Attorney General, a report of all justifiable homicides committed in his jurisdiction. In cases where both a sheriff and chief of police would be required to report a justifiable homicide under this section, only the chief of police shall report such homicide.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form BCS-15 along with the Return A, or electronically.

HATE CRIMES

Introduction

Hate Crime data is to be reported to DOJ to provide information on the location of crime, type of bias-motivation, victim type (individual/property), number of victims/suspects, and victim's/suspect's race. This information is provided to the FBI for publication in *Crime in the United States* and published in *Hate Crime in California*, an annual report to the California Legislature.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13023. Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, gender, sexual orientation, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

Hate Crimes (continued)

When

Reports are due monthly, by the 15th working day of the month.

How

Reporting may be accomplished manually by submitting the agency Crime Report, or electronically.

LAW ENFORCEMENT OFFICERS KILLED OR ASSAULTED

Introduction

Data on peace officers that were killed or assaulted in the line of duty is to be reported to DOJ to provide information on the type of criminal activity, type of weapon used, type of assignment, time of assault, number with or without personal injury, police assaults cleared, and officers killed by felonious act or by accident or negligence. This information is published in *Crime and Delinquency in California* and *Homicide in California*.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State,

Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form FBI 1-705 or FBI 4-927 (Return A), or electronically.

DOMESTIC VIOLENCE RELATED CALLS FOR ASSISTANCE

Introduction

Domestic violence information is to be reported to DOJ to provide monthly summary statistical data on the number of domestic violence-related calls received, number of cases involving weapons, and the type of weapon used during the incident. This information is published in *Crime and Delinquency in California* and the *Criminal Justice Profile* series.

Who

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

PC 13730. (a) Each law enforcement agency shall develop a system, by January 1, 1986, for

Sheriff Departments, Police Departments, and other state and local agencies with peace officer powers.

Why

Senate Resolution 64, Chapter 147, 1982, be it resolved by the Senate of the State of California, the Assembly thereof concurring, That local law enforcement officials are requested to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form BCS 727, or electronically.

DEATH IN CUSTODY

Introduction

Information on persons who die while in the custody of a local or state law enforcement agency is to be reported to DOJ to provide descriptive statistical information on the circumstances relating to the death.

Who

Sheriff Departments, Police Departments, Probation Departments and other state and local agencies with peace officer powers

recording all domestic violence-related calls for assistance made to the department including whether weapons are involved. All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision, (c) identifying the domestic violence incident. Monthly, the total number of domestic violence calls received and the numbers of those cases involving weapons shall be compiled by each law enforcement agency and submitted to the Attorney General.

(c) Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident. A report shall include at least both of the following:

(1) A notation of whether the officer or officers who responded to the domestic violence call observed any signs that the alleged abuser was under the influence of alcohol or a controlled substance.

(2) A notation of whether the officer or officers who responded to the domestic violence call determined if any law enforcement agency had previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form CJSC 715, or electronically.

VIOLENT CRIMES COMMITTED AGAINST SENIOR CITIZENS

Introduction

Information regarding violent crimes committed against senior citizens is to be reported to DOJ to provide summary data on the number of persons 60 years of age or older who were victims of homicide, forcible rape, robbery, and aggravated assault.

Violent Crimes Committed Against Senior Citizens (continued)

Who

Why

GC 12525. In any case in which a person dies while in the custody of any law enforcement agency or while in custody in a local or state correctional facility in this state, the law enforcement agency or the agency in charge of the correctional facility shall report in writing to the Attorney General, within 10 days after the death, all facts in the possession of the law enforcement agency or agency in charge of the correctional facility concerning the death. These writings are public records within the meaning of subdivision (d) of Section 6252 of the California Public Records Act (Chapter 3.5 (commencing with

Section 6250) of Division 7 of Title 1), are open to public inspection pursuant to Sections 6253, 6256, 6257, and 6258. Nothing in this section shall permit the disclosure of confidential medical information that may have been submitted to the Attorney General's office in conjunction with the report except as provided in Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

Death in Custody (continued)

When

Reports are due as needed, within 10 days of the date of death.

How

Reporting is accomplished manually by submitting form CJSC 713.

ADULT PROBATION

Introduction

Data regarding adult probation is to be reported to DOJ to provide a statistical profile of the probation function for superior and lower courts by county, type of placement, reasons for removal from probation, and the number of persons in supervision caseloads. This data is published in *Crime and Delinquency in California* and the *Criminal Justice Profile* series.

Who

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting is accomplished manually by submitting form CJSC 726.

JUVENILE COURT AND PROBATION STATISTICAL SYSTEM

Introduction

Juvenile justice data is to be reported to DOJ to provide information on the administration of juvenile justice in California. Information is collected on a juvenile's progress through the juvenile justice system from probation intake to final case disposition.

Who

Probation Departments.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority, Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General;

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her.

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

WI 285. All probation officers shall make such periodic reports to the Bureau of Criminal Statistics as the bureau may require and upon forms furnished by the bureau, provided that no names or social security numbers shall be transmitted regarding any proceeding under Section 300 or 601.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting is accomplished electronically, by cartridge or diskette, using JCPSS software.

CONCEALABLE WEAPONS STATISTICAL SYSTEM

Introduction

Concealable weapon data is to be reported to DOJ to provide information on race, ethnicity, age, and gender for each individual charged with a felony or a misdemeanor for carrying either a concealed weapon or loaded firearm.

Who

District Attorneys.

Why

PC 12025(h) (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

PC 12031(m) (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

When

Reports are due monthly, by the 10th working day of the month.

How

Reporting may be accomplished manually by submitting form CJSC 4, or electronically, through the Attorney General's LegalNet system or file transfer protocol.

HATE CRIME PROSECUTION SURVEY

Introduction

Hate crime data is to be reported to DOJ to provide information regarding criminal acts to cause physical injury, emotional suffering or property damage where there is a reasonable cause to believe that the crime was motivated by the victim's race, ethnicity, religion, gender, sexual orientation or physical or mental disability.

Who

District Attorneys.

Hate Crime Prosecution Survey (continued)

Why

13023. Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts

or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, gender, sexual orientation, or physical or mental disability. On or before July 1, 1992, and every July 1 thereafter, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.

When

Annually - the first week in February.

How

Reporting is accomplished manually by submitting form CJSC 5.

LAW ENFORCEMENT AND CRIMINAL JUSTICE PERSONNEL SURVEYS

Introduction

Agencies are to report to DOJ the number of full time, sworn and civilian male and female law enforcement personnel employed by law enforcement agencies, District Attorneys, Public Defenders or Probation Departments. Data are provided to the FBI for publication in *Crime in the United States*. Data are also published in *Crime and Delinquency in California* and the *Criminal Justice Profile* series.

Who

Sheriff Departments, Police Departments, District Attorneys, Public Defenders, Probation Departments and other state and local agencies with peace officer powers.

Why

PC 13020. It shall be the duty of every city marshal, chief of police, railroad and steamship police, sheriff, coroner, district attorney, city attorney and city prosecutor having criminal jurisdiction, probation officer, county board of parole commissioners, work furlough administrator, the Department of Justice, Health and Welfare Agency, Department of Corrections, Department of Youth Authority,

Law Enforcement and Criminal Justice Personnel Surveys (continued)

Youthful Offender Parole Board, Board of Prison Terms, State Department of Health, Department of Benefit Payments, State Fire Marshal, Liquor Control Administrator, constituent agencies of the State Department of Investment, and every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:

(a) To install and maintain records needed for the correct reporting of statistical data required by him or her:

(b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.

(c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title.

When

Annually - date specified for each agency.

How

Reporting is accomplished manually by submitting form JUS 02.

CITIZENS' COMPLAINTS AGAINST PEACE OFFICERS SURVEY

Introduction

Agencies are to report to DOJ statewide summary information on the number of non-criminal and criminal (misdemeanor and felony) complaints reported by citizens to law enforcement agencies, and the number of complaints that were sustained. Data are published in *Crime and Delinquency in California*.

Who

Sheriff Departments, Police Departments, District Attorneys, Probation Departments and other state and local agencies with peace officer powers.

Why

PC 13012. The annual report of the department provided for in Section 13010 shall contain statistics showing all of the following:

(d) The number of citizens' complaints received by law enforcement agencies under Section 832.5. Such statistics shall indicate the total number of these complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

When

Annually - the third week of December.

How

Reporting is accomplished manually by submitting form CJSC 724.

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Data	Reporting Agencies						Frequency	Statute	Reporting Form	Electronic Reporting
	SD	PD	Other*	District Attorneys	Public Defenders	Probation Dept.				
Arrests	X	X	X				Monthly-10th working day	PC 13020 and PC 13021	JUS 750	X
Crimes and Clearance	X	X	X				Monthly-10th working day	PC 13020	FBI 4-927, JUS 729	X
Arson	X	X	X				Monthly-10th working day	PC 13020	FBI 1-725	X
Homicides	X	X	X				Monthly-10th working day	PC 13014(b) and PC 13022	BCS 15 Return A	X
Hate Crimes	X	X	X				Monthly-15th working day	PC 13023	Agency Crime Report	X
Law Enforcement Officers Killed or Assaulted	X	X	X				Monthly-10th working day	PC 13020	FBI 1-705, FBI 4-927	X
Domestic Violence Related Calls for Assistance	X	X	X				Monthly-10th working day	PC 13730(a)(c)	CJSC 715	X
Violent Crimes Committed Against Senior Citizens	X	X	X				Monthly-10th working day	Senate Resolution 64, Chapter 147, 1982	BCS 727	X
Death in Custody	X	X	X			X	As needed w/in 10 days of death	GC 12525	CJSC 713	None
Adult Probation						X	Monthly-10th working day	PC 13020	CJSC 726	None
Juvenile Court and Probation Statistical System						X	Monthly-10th working day	PC 13020 and WI 285	None	X
Concealable Weapons Statistical System				X			Monthly-10th working day	PC 12025(h) and PC 12031(m)	CJSC 4	X
Law Enforcement & Criminal Justice Personnel Surveys	X	X	X	X	X	X	Annually Varies by agency	PC 13020	JUS 02	None
Citizens' Complaints Against Peace Officers Survey	X	X	X	X		X	Annually December 15	PC 13012(d)	CJSC 724	None
Hate Crime Prosecution Survey				X			Annually February 4	PC 13023	CJSC 5	None

*State and local agencies with peace officer powers.

445

DEPARTMENT OF
FINANCE
OFFICE OF THE DIRECTOR

ARNOLD SCHWARZENEGGER, GOVERNOR
STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

RECEIVED
AUG 15 2008
COMMISSION ON
STATE MANDATES

August 15, 2008

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Higashi:

As requested in your letter of July 11, 2008, the Department of Finance (Finance) has reviewed the test claim submitted by the County of Sacramento and the City of Newport Beach (test claimants) asking the Commission to determine whether specified costs incurred under the test claim amendment Claim No. CSM-07-TC-10 (02-TC-04 & 02-TC-11) "Crimes Statistics Reports for the Department of Justice-Amended" are reimbursable state mandated costs. The test claimants plead additional statutes to assert that the preexisting criminal statistical reporting program has been expanded by Sections 13020 and 13021 of the Penal Code and impose a higher level of services on local entities.

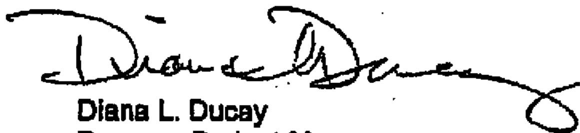
As a result of our review, Finance finds the test claim amendment does not support a finding of additional costs mandated by the state pursuant to Section 17514 of the Government Code. Section 17514 of the Government Code defines "costs mandated by the state" as increased costs a local agency or a school district is required to incur after July 1, 1980, as a result of statutes or executive orders enacted on or after January 1, 1975. Sections 13020 and 13021 of the Penal Code were enacted in 1955 and 1967 respectively. Further, the amendments to Sections 13020 and 13021 (Chapters 255 and 860, Statutes of 1979 and Chapter 872, Statutes of 1996) made only technical and clarifying changes which do not mandate a new program or higher level of service within the meaning of the Section 6 of Article XIII B of the California Constitution.

The Commission adopted the Statement of Decision for the original test claim, "Crime Statistics Reports for the Department of Justice," partially approving the test claim at the June 26, 2008 hearing. The items plead in the original test claim are no longer before the Commission for review, and the additional statutes plead made only technical and clarifying changes to the items already approved by the Commission. Chapter 405, Statutes of 2004, amended Section 13014 of the Penal Code to allow the information submitted by local agencies to the Department of Justice to be submitted on written forms or by electronic means. Chapter 700, Statutes of 2004 rephrases the reporting requirement to information related to "hate crimes" and provides that hate crimes are defined in Section 422.55 of the Penal Code. The characteristics listed in Section 422.55 are identical to the characteristics listed in Section 13023 prior to this statutory change. Therefore, the Commission should deny the test claim amendment in its entirety.

As required by the Commission's regulations, a "Proof of Service" has been enclosed indicating that the parties included on the mailing list which accompanied your July 11, 2008 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Carla Castañeda, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,



Diana L. Ducay
Program Budget Manager

Enclosure

Attachment A

DECLARATION OF CARLA CASTANEDA
DEPARTMENT OF FINANCE
CLAIM NO. CSM-07-TC-10 (02-TC-04 & 02-TC-11)

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

August 15, 2008
at Sacramento, CA

Carla Castañeda

PROOF OF SERVICE
Test Claim Name: Crime Statistic Reports for Department of Justice - Amended
Test Claim Number: 07-TC-10 (02-TC-04)

I, the undersigned, declare as follows:
I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 12 Floor, Sacramento, CA 95814.

On August 15, 2008, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 12 Floor, for Interagency Mail Service, addressed as follows:

A-16
Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Facsimile No. 445-0278

Mr. Glen Everroad
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659

B-08
Mr. Jim Spano
State Controller's Office
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Mr. Keith B. Petersen
SixTen & Associates
3841 North Freeway Boulevard, Suite 170
Sacramento, CA 95834

Ms. Julie Basco
California Department of Justice Statistics Ctr.
P.O. Box 903427
Sacramento, CA 94203-4270

Mr. Dale Mangram
Riverside County Auditor Controller's Office
4080 Lemon Street, 3rd Floor
Riverside, CA 92502

Ms. Juliana F. Gmur
MAXIMUS
2380 Houston Avenue
Clovis, CA 93611

Ms. Nancy Gust
County of Sacramento
711 G Street
Sacramento, CA 95814

Mr. Steve Shields
Shields Consulting Group, Inc.
1536 36th Street
Sacramento, CA 95816

Ms. Annette Chinn
Cost Recovery Systems, Inc.
705-2 East Bidwell Street, #294
Folsom, CA 95630

Ms. Bonnie Ter Keurst
County of San Bernardino
Office of the Auditor/Controller-Recorder
222 West Hospitality Lane
San Bernardino, CA 92415-0018

Ms. Jean Kinney Hurst
California Association of Counties
1100 K Street, Suite 101
Sacramento, CA 95814-3941

Executive Director
California Peace Officer's Association
1455 Response Road, Suite 190
Sacramento, CA 95815

A-15
Ms. Susan Geanacou
Department of Finance
915 L Street, Suite 1190
Sacramento, CA 95814

Mr. David Wellhouse
David Wellhouse & Associates, Inc.
9175 Kiefer Blvd., Suite 121
Sacramento, CA 95826

Mr. Leonard Kaye
County of Los Angeles
Auditor-Controller's Office
500 W. Temple Street, Room 603
Los Angeles, CA 90012

Ms. Jolene Tollenaar
MGT of America
455 Capitol Mall, Suite 600
Sacramento, CA 95814

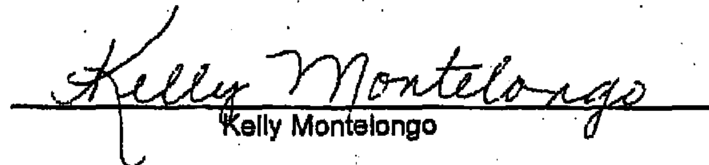
A-15
Ms. Carla Castaneda
Department of Finance
915 L Street, 11th Floor
Sacramento, CA 95814

Mr. Allan Burdick
MAXIMUS
4320 Auburn Boulevard, Suite 2000
Sacramento, CA 95841

B-08
Ms. Ginny Brummels
State Controller's Office
Division of Accounting and Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

Ms. Beth Hunter
Centration, Inc.
8570 Utica Avenue, Suite 100
Rancho Cucamonga, CA 91730

On I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on August 15, 2008 at Sacramento, California.



Kelly Montelongo

EXHIBIT C

EDMUND G. BROWN Jr.
Attorney General

State of California
DEPARTMENT OF JUSTICE

BUREAU OF CRIMINAL INFORMATION AND ANALYSIS
P.O. BOX 903427
SACRAMENTO, CA 94203-4270
(916) 227-3515

September 5, 2008

RECEIVED
SEP 05 2008
COMMISSION ON
STATE MANDATES

Commission on State Mandates
Ms. Paula Higashi
Executive Director
980 Ninth Street, Suite 300
Sacramento, CA 95814

RE: Test Claim Amendment - Crime Statistics Reports for the Department of Justice 02-TC-04, 02-TC-11

Dear Ms. Higashi:

The Department of Justice (DOJ) has reviewed the test claim submitted by the City of Newport Beach and the County of Sacramento requesting the Commission on State Mandates determine whether specified costs incurred under the Test Claim Amendment Number CSM-07-TC-10 "Crime Statistics Reports for the Department of Justice 02-TC-04, 02-TC-11" represent state mandated reimbursable costs.

After review, the DOJ does not have any comments regarding whether the specified costs incurred represent state mandated reimbursable costs. However, the DOJ would like to point out the large discrepancy in the relative dollar amounts claimed by Sacramento County and Newport Beach in the test claim to perform the same duties. Sacramento County claims that the state mandated reimbursable costs amount to $2,370 per year. Newport Beach claims that the state mandated reimbursable costs amount to $142,324 per year. For comparison purposes, the estimated population of the area served by the Sacramento County Sheriff's Department is 617,000. The estimated population of the area served by the Newport Beach Police department is 83,000. For 2005, Sacramento County Sheriff's Department (SCSD) reported more than 36,000 crimes (crimes include homicide, forcible rape, robbery, aggravated assault, burglary, motor vehicle theft, larceny-theft, and arson) to the Department of Justice (DOJ). For 2005, Newport Beach Police Department (NBPD) reported 3,500 crimes to the DOJ. The population in the area served by the SCSD is seven (7) times greater than that of the population of the area served by NBPD, and SCSD reported more than ten (10) times the number of crimes, yet the claim for Newport Beach is sixty (60) times greater than that of Sacramento County.

As required by the Commission's regulations, a Proof of Service is attached that indicates all parties on the mailing list for your letter dated July 11, 2008 have been provided copies of this letter.

If you have any questions or concerns, please contact Michael Van Winkle, Department of Justice Administrator I, Criminal Justice Statistics Center, at (916) 227-3515.

Sincerely,

Marilyn Yankee

MARILYN YANKEE, Assistant Bureau Chief
Criminal Justice Statistics Center
Bureau of Criminal Information and Analysis

for EDMUND G. BROWN Jr.
Attorney General

cc: Michael Van Winkle
Criminal Justice Statistics Center

All Parties and Interested Parties

PROOF OF SERVICE
Test Claim Name: Crime Statistic Reports for Department of Justice - Amended
Test Claim Number: CSM 07-TC-10 (02-TC-04 and 02-TC-11)

I, the undersigned, declare as follows:
I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 4949 Broadway, Room B-241, Sacramento, CA 95820.

On September 5, 2008, I served the attached correspondence of the Department of Justice, by facsimile to the Commission on State Mandates and by placing a true copy thereof to all claimants agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California, addressed as follows:

Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Mr. Glen Everroad
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659

Mr. Jim Spano
State Controller's Office
Division of Audits
300 Capitol Mall, Suite 518
Sacramento, CA 95814

Mr. Keith B. Petersen
SixTen & Associates
3841 North Freeway Boulevard, Suite 170
Sacramento, CA 95834

Ms. Julie Basco
California Department of Justice
P.O. Box 903427
Sacramento, CA 94203-4270

Mr. Dale Mangram
Riverside Co. Auditor Controller's Office
4080 Lemon Street, 3rd Floor
Riverside, CA 92502

Ms. Juliana F. Gmur
MAXIMUS
2380 Houston Avenue
Clovis, CA 93611

Ms. Nancy Gust
County of Sacramento
711 G Street
Sacramento, CA 95814

Mr. Steve Shields
Shields Consulting Group, Inc.
1536 36th Street
Sacramento, CA 95816

Ms. Annette Chinn
Cost Recovery Systems, Inc.
705-2 East Bidwell Street, #294
Folsom, CA 95630

Ms. Bonnie Ter Keurst
County of San Bernardino
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222 West Hospitality Lane
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Ms. Jean Kinney Hurst
California Association of Counties
1100 K Street, Suite 101
Sacramento, CA 95814-3941

Executive Director
California Peace Officer's Association
1455 Response Road, Suite 190
Sacramento, CA 95815

Mr. David Wellhouse
David Wellhouse & Associates, Inc.
9175 Kiefer Blvd., Suite 121
Sacramento, CA 95826

Ms. Jolene Tollenaar
MGT of America
455 Capitol Mall, Suite 600
Sacramento, CA 95814

Mr. Allan Burdick
MAXIMUS
4320 Auburn Boulevard, Suite 2000
Sacramento, CA 95841

Ms. Beth Hunter
Centration, Inc.
8570 Utica Avenue, Suite 100
Rancho Cucamonga, CA 91730

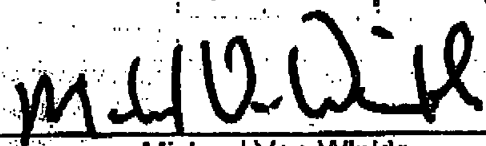
Ms. Susan Geanacou
Department of Finance
915 L Street, Suite 1190
Sacramento, CA 95814

Mr. Leonard Kaye
County of Los Angeles
Auditor-Controller's Office
500 W. Temple Street, Room 603
Los Angeles, CA 90012

Ms. Carla Castaneda
Department of Finance
915 L Street, 11th Floor
Sacramento, CA 95814

Ms. Ginny Brummels
State Controller's Office
Division of Accounting and Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

On I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 5, 2008 at Sacramento, California.



Michael Van Winkle

EDMUND G. BROWN, Jr.
Attorney General

State of California
DEPARTMENT OF JUSTICE

FAX TRANSMISSION COVER SHEET

IMPORTANT/CONFIDENTIAL: This communication is intended for the use o f the individual or entity to which it is addressed. This message contains information from the State of California, Attorney General's Office which may be privileged, confidential and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient, or the employee, or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited.

DATE: 9/5/2008 TIME: 3:30 PM PDT NO. OF PAGES: (INCLUDING COVER SHEET) 5

TO:
NAME: Paula Higashi, Executive Director
OFFICE: Commission on State Mandates
LOCATION:
FAX NO.: 445-0278 PHONE NO.:

FROM:
NAME: Michael Van Winkle
OFFICE: Bureau of Criminal Information and Analysis, Criminal Justice Statistics Center
LOCATION: P.O. Box 903427, Sacramento, CA 94203-4270 Room B-233
FAX NO.: (916) 227-0427 PHONE NO.: (916) 227-3675

MESSAGE/INSTRUCTIONS

PLEASE DELIVER AS SOON AS POSSIBLE!
FOR ASSISTANCE WITH THIS FAX, PLEASE CALL THE SENDER

JUS 133 (6/96)

EXHIBIT D

GEORGE A. HEAP, Appellant,
v.
CITY OF LOS ANGELES (a Municipal Corporation) et al., Respondents.
L. A. No. 15470.

Supreme Court of California
May 21, 1936.

HEADNOTES

(1) Municipal Corporations--Civil Service--Discharge of Employee-- Reexamination--Jurisdiction.
Under the Los Angeles City charter, providing for an investigation of the grounds for discharge of a civil service employee by the board of civil service commissioners, the jurisdiction of the commission is a special and limited one; and when it has acted upon an application of the discharged employee for investigation of the discharge, and has sustained the discharge, its order therein is final and it has no power thereafter to set aside the order and make a new order.
See 18 **Cal. Jur.** 986.
(2) Municipal Corporations--Petition--Sufficiency of.
In a proceeding for a mandate to compel reinstatement of a discharged civil service employee of a municipality, there is no merit in the point that the petition does not affirmatively allege a prior order of the commission, certified by the board of public works, and that, therefore, it was improper to sustain a demurrer to the petition without leave to amend, where an exhibit to the petition, which is the order under review, expressly refers to the prior action and purports to rescind it.

SUMMARY

APPEAL from a judgment of the Superior Court of Los Angeles County. Emmet H. Wilson, Judge. Affirmed.

The facts are stated in the opinion of the court.

COUNSEL

Leo V. Youngworth and J. Harold Decker for Appellant.

Ray L. Chesebro, City Attorney, Frederick von Schrader, Assistant City Attorney, and Thatcher J. Kemp and Jerrell Babb, Deputies City Attorney, for Respondents.

THE COURT.

A hearing was granted in this case after decision by the District Court of Appeal, Second Appellate District, Division One. After further consideration, we adopt the following opinion of said court as part of the opinion of this court:

(1) "Respondents' demurrer to appellant's petition for a writ of mandate was sustained without leave to amend, and the appeal is from the judgment subsequently entered against petitioner. The petition alleges that the appellant, a civil service employee in the bureau of engineering of respondent city, was discharged from his position, and that he thereupon made written application to the civil service commission for an investigation of the grounds for such discharge and hearing thereon. A certified copy of the findings of the commission, the statutory name of which is 'Board of Civil Service Commissioners', is made a part of the petition. This shows that on November 13, 1931, 'a motion was adopted rescinding the action of the Civil Service Commission on October 20, 1931, sustaining said discharge', and that a second motion was then adopted, finding that the grounds stated for the discharge of the appellant were not sustained and ordering him restored to duty. The only question presented on this appeal is whether or not the civil service commission, after having passed upon the question submitted to it, could thereafter vacate its findings and make another and contrary order. Respondent contends that when the commission acted on the matter it exhausted its jurisdiction, and that the subsequent resolution is void.

"The charter of the respondent city provides that a discharged employee may file an application with the board of civil service commissioners for an investigation of the grounds for his discharge. It further pro-

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vides: 'If after such investigation said board finds, in writing, that the grounds stated for such removal, discharge or suspension were insufficient or were not sustained, and also finds in writing that the person ***407** removed, discharged or suspended is a fit and suitable person to fill the position from which he was removed, discharged or suspended, said board shall order said person ... to be reinstated or restored to duty. The order of said board with respect to such removal, discharge or suspension shall be forthwith certified to the appointing board or officer, and shall be final and conclusive; ...' (Sec. 112 [a], Stats. 1925, pp. 1024, 1067.)

"The jurisdiction of the commission is a special and limited one. (*Peterson v. Civil Service Board*, 67 Cal. App. 70 [227 Pac. 238].) The required procedure was followed, and the question of appellant's discharge was determined by the commission when it adopted the first resolution. Its action sustaining his discharge was 'final and conclusive'. (*Krohn v. Board of Water & Power Commissioners*, 95 Cal. App. 289, 296 [272 Pac. 757].) It had no jurisdiction to retry the question and make a different finding at a later time. The charter gives no such grant of power, and it may not be implied. 'A civil service commission has no inherent power after entering a final order dismissing an officer from the service to entertain a motion for new trial or rehearing and review and set aside its prior order.' (43 Cor. Jur. 682. See, also, *Cook v. Civil Service Commission*, 160 Cal. 598, 600 [117 Pac. 662].)"

Petitioner urges that the case of *Lane v. United States*, 241 U. S. 201 [36 Sup. Ct. 599, 60 L. Ed. 956], sustains his position. It was therein held that the secretary of the interior had power to reconsider a prior administrative order as to which persons were heirs of an Indian allottee of land, despite the fact that his order was, under the statute, "final and conclusive". A reading of the opinion, however, discloses that at the time the redetermination was made, title to the land was still in the United States and under the administrative control of the land department. There were undoubtedly several grounds, both of policy and statutory interpretation, for holding that in such a case a high executive officer had power to reconsider his orders.

But the rule stated above, that a civil service commission has no such power in the absence of express authorization, is sound and practical. If the power were admitted, what procedure would govern its exercise? Within what time would it have to be exercised; how many times could it be ***408** exercised? Could a subsequent commission reopen and reconsider an order of a prior commission? And if the commission could reconsider an order sustaining a discharge, could it reconsider an order having the opposite effect, thus retroactively holding a person unfit for his position? These and many other possible questions which might be raised demonstrate how unsafe and impracticable would be the view that a commission might upset its final orders at its pleasure, without limitations of time, or methods of procedure. Seemingly in recognition of this, the Los Angeles charter expressly provides a procedure for reconsidering orders of suspension or removal of policemen or firemen by a board of inquiry, within three years after the making of an order; but no such procedure is provided in the case of the civil service commission.

(2) Petitioner finally suggests that the petition does not affirmatively allege a prior order of the commission of October 20, 1931, certified to the board of public works, and that therefore it was improper to sustain the demurrer without leave to amend. There is no merit in this point, for the exhibit to the petition, which is the order of November 17th, expressly refers to the prior action of October 20, 1931, and purports to rescind it. The fact of a prior order is thus definitely established, and the demurrer was properly sustained.

The judgment is affirmed.

Cal.
Heap v. City of Los Angeles
6 Cal.2d 405, 57 P.2d 1323

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SAVE OXNARD SHORES et al., Plaintiffs and Appellants,
v.
CALIFORNIA COASTAL COMMISSION, Defendant and Appellant; CITY COUNCIL OF THE CITY OF OXNARD, Real Party in Interest and Respondent; OXNARD SHORES OCEANFRONT LOT OWNERS ASSOCIATION et al., Interveners and Appellants.
No. B003988.

Court of Appeal, Second District, California.
Mar 26, 1986.

SUMMARY

In a proceeding for writ of administrative mandamus directing the California Coastal Commission to set aside and vacate its decision approving a city's land use plan under which residential construction would be allowed in an oceanfront area, the trial court issued an alternative writ, in compliance with which the commission set aside its original decision and filed a return vacating the conditional certification as to the oceanfront area. On motion of an intervenor, an association of lot owners in the area alleging that its members were permitted by the land use plan to construct residences on their lots and that any action setting aside the commission's decision would deprive them of economic development of their property and constitute a taking without just compensation, the trial court issued an order striking the return and restraining the commission from setting aside its decision pending resolution of the litigation. Subsequently, the court ordered the alternative writ discharged and the petition dismissed, and awarded costs to the intervenor and the city. After judgment, the court denied the intervenor's motion for attorney fees on the private attorney general theory pursuant to Code Civ. Proc., § 1021.5. (Superior Court of Ventura County, No. SP 50444, William L. Peck, Judge.)

The Court of Appeal affirmed in part and reversed in part. It held the trial court's action in ordering the returns stricken and in holding the commission's action to be invalid improper, since the commission's action in compliance with the writ was a valid exercise of its authority, and upon resubmission the portion of the land use plan dealing with the affected area would be treated the same as on original submission, receiving a hearing with public participation and the full panoply of procedural safeguards. The court also held that the award of costs to the intervenor and the city was improper, and that the motion for attorney fees was properly denied, since there had been no showing that the litigation was necessary or that the lawsuit placed a burden on the members of the lot owners' association out of proportion to their individual interests in the matter. On appeal, the court held, the association's claim for attorney fees had become moot, since it was not a successful party as required by § 1021.5. (Opinion by Gilbert, J., with Stone, P. J., and Abbe, J., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

(1) Administrative Law § 99--Judicial Review and Relief--Methods-- Administrative Mandamus--Relation to Traditional Mandamus.
Because Code Civ. Proc., § 1094.5, supplements the existing law of mandamus, the same principles and procedures are applicable to both traditional and administrative mandamus. Administrative mandamus did not, by enactment of that section, acquire a separate and distinctive legal personality. It is not a remedy removed from the general law of mandamus or exempted from the latter's established principles, requirements and limitations.
[See **Cal.Jur.3d**, Administrative Law, § 317.]
(2) Administrative Law § 99--Judicial Review and Relief--Methods-- Administrative Mandamus--Alternative Writ.
On petition for administrative mandamus, a court will issue an alternative writ when the petition sufficiently alleges a cause of action that, if proven, could lead to the issuance of a final or peremptory writ. Administrative proceedings should be completed before the issuance of the writ. The writ is not a final court adjudication but is merely an order for the agency to show cause or, in the alternative, to comply. The agency is placed on notice that petitioners have made a sufficient showing to cast doubt upon the validity of its decision. Although it may be expected that the agency will file an answer to the writ, compliance is

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among the acceptable responses, and it terminates the litigation.

(3) Administrative Law § 100--Judicial Review and Relief--Methods-- Administrative Mandamus--Availability of Remedy--Where Agency Has Complied With Alternative Writ.
Where an agency files a return that indicates compliance with an alternative writ, the petition is subject to dismissal for mootness, since no purpose would be served in directing the doing of that which has already been done.

(4) Administrative Law § 74--Administrative Actions--Adjudication-- Rehearing, Reconsideration, and Modification.
In the absence of express statutory authority, an administrative agency may not change a determination made on the facts presented at a full hearing once its decision has become final. Thus, at the time a lot owners' association filed a petition for administrative mandamus directing the California Coastal Commission to set aside and vacate its decision approving a land use plan under which residential construction would be allowed in an oceanfront area, the commission lacked authority to modify or revoke its original decision, which had become final.
[See Am.Jur.2d, Administrative Law, § 522.]
(5a, 5b, 5c) Pollution and Conservation Laws § 10--Conservation-- Coastal Protection--Power of Coastal Commission to Set Aside Decision.
In a proceeding in which an alternative writ of mandate was issued directing the California Coastal Commission to set aside and vacate its decision approving a land use plan under which residential construction would be allowed in an oceanfront area, the court's action was improper in ordering the returns filed by the commission in compliance with the writ stricken pursuant to the motion of an intervenor, an association of lot owners in the affected area, on the ground that the commission lacked the authority to vacate its final decision after 60 days or to set it aside after the lot owners' association intervened, and holding the commission's action to be invalid. The commission's action in compliance with the writ was a valid exercise of its authority, and upon resubmission the portion of the land use plan dealing with the affected area would be treated the same as on original submission, receiving a hearing with public participation and the full panoply of procedural safeguards.

(6) Pollution and Conservation Laws § 10--Conservation--Coastal Protection--Presumption That Coastal Commission Acted in Public Interest.
The presumption that in reaching a decision to approve a land use plan under which residential construction in an oceanfront area would be allowed the California Coastal Commission acted regularly and in the public interest applied equally to its action in complying with an alternative writ directing the commission to set aside its decision or to appear and show cause, and this presumption was not affected by an interim change in the membership on the commission.

(7) Administrative Law § 74--Administrative Actions--Vacating Decision in Compliance With Alternative Writ of Mandate.
Administrative mandamus is a statutory procedure for initiating judicial review of an agency decision that is otherwise accorded a presumption of regularity. Although the agency may defend its decision, neither statutory authority nor judicial precedent requires that response. Further, in the absence of an express requirement that a public hearing be conducted, due process is not violated when an agency obviates judicial review by vacating its decision in voluntary compliance with the writ. Hence, the California Coastal Commission did not violate procedural due process by setting aside a portion of its decision to approve a city's land use plan allowing residential construction in an oceanfront area in compliance with an alternative writ of mandate, notwithstanding that it took such action without notice or a hearing.

(8a, 8b, 8c) Pollution and Conservation Laws § 10--Conservation-- Coastal Protection--Power of Coastal Commission to Set Aside Decision.
In a proceeding for administrative mandamus directing the California Coastal Commission to set aside and vacate its decision approving a land use plan under which residential construction would be allowed in an oceanfront area, the action of the commission in setting aside its prior decision did not deprive an intervenor, a lot owners' association alleging that under the land use plan its members were permitted to construct residences on their oceanfront lots and any action setting aside the commission's decision would deprive them of economic development of their property and constitute a taking without just compensation, of procedural due process; because the mere presence of an intervenor does not stay operation of

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an alternative writ, the commission still retained the option of noncompliance, and after the commission's return was filed, the court had no further authority, the matter was moot, and the intervenor could not compel the court to take further action; further, the commission's original decision did not turn the desire of members of the association to build homes on their oceanfront lots into a constitutional right.

(9) Parties § 10--Intervention--Power of Interveners.
The ability of interveners to control litigation is circumscribed because they are bound by the status of the proceedings at the time of intervention. They may not, therefore, retard the principal suit, delay trial, or change the position of the parties.

(10) Zoning and Planning § 5--Constitutional and Statutory Provisions-- Vested Rights.
A California property owner has no vested right in an existing or anticipated land use plan, designation, or zoning classification. Nor has he a cause of action for unconstitutional taking or damaging of his property due to the adoption of particular conditions for development. An exception may be made for a developer who has acquired a vested interest in completion of a public construction project by a good faith investment of time or money.

(11) Pollution and Conservation Laws § 10--Conservation--Coastal Protection--Statutory Goals.
The paramount concern of the California Coastal Commission is the protection of the coastal area for the benefit of the public. The predominant goal of the Coastal Act (Pub. Resources Code, § 30000 et seq.) is the protection of public access and preservation of the fragile coastal ecology from overzealous encroachment.

(12) Costs § 8--Taxation and Award--Mandamus Proceeding--Award to Intervener.
In a proceeding in which an alternative writ of mandate was issued directing the California Coastal Commission to set aside and vacate its decision approving a land use plan under which residential construction would be allowed in an oceanfront area, in which proceeding the court, on motion of an intervener, struck the commission's return as invalid, discharged the alternative writ, and dismissed the petition, petitioner, an association of homeowners in the affected area, was improperly ordered to pay costs to the intervener, which was an unincorporated association of residents in the affected area, and to the city that had formulated the land use plan.

(13) Costs § 7--Amount Items Allowable--Attorney Fees--Private Attorney General Theory.
In a proceeding in which an alternative writ of mandate was issued directing the California Coastal Commission to set aside and vacate its decision approving a land use plan under which residential construction would be allowed in an oceanfront area, and in which the court on motion of an intervenor, an association of lot owners in the affected area, ordered the returns filed by the commission in compliance with the writ stricken and held the commission's action to be invalid, the trial court did not abuse its discretion in denying the intervener's motions to require petitioners and the commission to pay its attorney fees on a private attorney general theory pursuant to Code Civ. Proc., § 1021.5, where there was no showing that the litigation was necessary or that the lawsuit placed a burden on the intervenor's members out of proportion to their individual interests in the matter, and where the public benefit, if any, was incidental by comparison to the purely private advantage for the association's members. Further, on appeal the intervener's claim for attorney fees was moot, in that the intervener was not a successful party as required by § 1021.5.
[Allowance of attorneys' fees in mandamus proceedings, note, 34 A.L.R.4th 457.]
COUNSEL

Samuel Goldfarb, in pro. per., Alan G. Martin, Timothy T. Coates, Greines, Martin, Stein & Richland, Cox & Mellen, Michael David Cox, Chase Mellen III and Phil Seymour for Plaintiffs and Appellants.

John K. Van de Kamp, Attorney General, N. Gregory Taylor, Assistant Attorney General, and Peter H. Kaufman, Deputy Attorney General, for Defendant and Appellant.

Thorpe, Sullivan, Workman & Thorpe, Sullivan, Workman & Dee, Roger M. Sullivan and Henry K. Workman for Interveners and Appellants.

K. D. Lyders, City Attorney, for Real Party in Interest and Respondent.

GILBERT, J.

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Here we hold that an administrative agency, the California Coastal Commission (Commission), may set aside a portion of its previous decision in compliance with an alternative writ of mandamus.

The alternative writ issued on the petition of Save Oxnard Shores, an unincorporated association of property owners, including William Coopman, Robert Hansen and Samuel Goldfarb (collectively SOS). SOS questioned the validity of a Commission decision which conditionally certified the City of Oxnard (Oxnard) land use plan (LUP), permitting residential construction in an area known as Oxnard Shores.

Oxnard Shores Oceanfront Lot Owners Association and property owners Erik Linder and Emanuel Gyler (collectively OSOLOA) intervened before the Commission filed its return setting aside the challenged portion of its decision. Thereafter, on motion by OSOLOA, the trial court struck the Commission's return as invalid, discharged the alternative writ, and dismissed the SOS petition. *146

We reverse that portion of the order striking the Commission's return. We affirm the order denying OSOLOA attorney fees on its cross-appeal.

Facts

On May 20, 1980, following public hearings, Oxnard approved a proposed LUP, which permitted residential development in Oxnard Shores, and submitted it to the South Central Regional Coastal Commission (Regional). Regional approved and forwarded the LUP to the Commission on September 19, 1980. On July 21, 1981, the Commission certified the LUP on condition that its provisions be revised to improve public access to the beach in conformity with the California Coastal Act of 1976. (Pub. Resources Code, § 30000 et seq., Coastal Act.)

On September 21, 1981, SOS filed a petition for a writ of administrative mandamus (Code Civ. Proc., § 1094.5) [FN1] directing the Commission to set aside and vacate its decision as to Oxnard Shores. SOS alleged that Oxnard Shores was within 100 year flood and storm wave run-up areas and Commission planners had evidence that the area was likely to suffer additional erosion. Therefore, residential development would be inconsistent with coastal protection policies (Coastal Act, §§ 30253, 30211, 30212). In particular, SOS alleged that: (1) a substantial setback from the mean high tide line was required for new construction in the area which was subject to further beach erosion, and (2) prescriptive easements for public use of the beach might be extinguished because access would be restricted during high tides by beachfront residences.

FN1 All statutory references hereafter are to the Code of Civil Procedure unless otherwise specified.

On October 2, the court issued an alternative writ directing the Commission to set aside its decision or to appear and show cause on November 16, 1981. On October 28, OSOLOA filed a complaint in intervention seeking discharge of the alternative writ and denial of the peremptory writ. OSOLOA alleged that its members were permitted by the LUP to construct single-family residences on their oceanfront lots, and any action setting aside the Commission's decision would deprive them of economic development of their property and constitute a taking without just compensation. (Cal. Const., art. I, § 19.)

On January 8, 1982, the Commission conducted a public hearing on the application of OSOLOA member Emanuel Gyler for a permit to build a single-family home on his oceanfront lot. Following testimony relating to residential construction and public beach access, some commissioners expressed *147 doubt about allowing beachfront construction on Oxnard Shores. The hearing on the permit application was adjourned. Because of the alternative writ, the Commission convened in executive session to consider its prior decision.

On January 21, 1982, the Commission set aside its original July 1981 decision. On January 22 it filed a return vacating the conditional certification as to Oxnard Shores in compliance with the writ. The return stated: "First, review of the record of the public hearing on that matter, in light of the allegations and arguments contained in the Petition for Writ of Mandate, called into serious question the correctness of the Commission's analysis and application of geological evidence presented at the hearing; second, review of the record also raised substantial questions

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concerning the propriety of the Commission's interpretation and application of the Coastal Act with respect to this evidence." A supplemental return was filed in April stating that a public hearing would be deferred pending Oxnard's resubmission of the LUP.

On May 20, the court granted OSOLOA's motion to strike the return and to restrain the Commission from setting aside its decision pending resolution of the litigation. On July 28, at the Commission's request, the court made a "clarification" order that stated: (1) the returns were stricken because the Commission lacked authority to vacate its final decision after 60 days, or to set it aside after OSOLOA intervened, and (2) although the motion did not raise the issue, the court upon request would hold the Commission's January 1982 action invalid.

On November 23, 1982, OSOLOA accepted this invitation and by way of a supplemental complaint requested a ruling that the Commission's action to reconsider its original decision was invalid. Not surprisingly, the trial court on cross-motions for summary adjudication, ruled that the Commission's action vacating its earlier decision was invalid.

On March 16, 1983, OSOLOA filed a motion to discharge the alternative writ and dismiss the SOS petition because no issues were presented for trial. The court had entered an order October 12, 1982, which required SOS to file the administrative record by January 17, established a briefing schedule beginning February 15, and set trial for April 4. OSOLOA alleged that SOS had not yet either paid for or filed the administrative record and that without the record, SOS could not show the insufficiency of the evidence to support the decision or overcome the presumption that the Commission regularly performed its official duty. SOS argued that the Commission's compliance rendered the administrative record irrelevant. *148

On June 22, 1983, the trial court granted OSOLOA's motion. The court stated, inter alia, that while trial was continued pending receipt of the administrative record, the Commission filed a return purporting to vacate its decision without a hearing, solely as to Oxnard Shores, on a "review of the record." The court ordered the return stricken because no record had been prepared and declared the Commission's action invalid. In the absence of the administrative record, the matter was governed by the presumption that the Commission proceedings were "regularly performed" and supported by the evidence (Evid. Code, § 664; *Gong v. City of Fremont* (1967) 250 Cal.App.2d 568, 573-574 [58 Cal.Rptr. 664]) and there was no basis to issue a peremptory writ of mandate. The court therefore discharged the alternative writ, denied the peremptory writ, dismissed the SOS petition, reaffirmed its orders striking the Commission's returns to the alternative writ, and awarded costs to OSOLOA and Oxnard.

After judgment, OSOLOA moved for orders allowing attorney's fees against the Commission and SOS on the "private attorney general" theory. (Code Civ. Proc., § 1021.5.)The court denied both motions.

Discussion

SOS contends that the trial court erred in striking the returns and that the Commission's valid compliance with the alternative writ rendered the peremptory writ proceedings moot.

I

The alternative writ of mandamus issued on SOS' timely verified petition for judicial review under section 1094.5 as authorized by section 30801 of the Coastal Act (*Abelleira v. District Court of Appeal* (1941) 17 Cal.2d 280 [109 P.2d 942, 132 A.L.R. 715].) Administrative mandamus (§ 1094.5) provides for judicial review of an agency decision resulting from a proceeding in which "(1) by law a hearing is required to be given, (2) evidence is required to be taken, and (3) the determination of the facts is the responsibility of the administrative agency." (§ 1094.5, subd. (a); *Gong v. City of Fremont, supra.*, 250 Cal.App.2d 568, 572.)

(1)Because section 1094.5 supplements the existing law of mandamus, the same principles and procedures are applicable to both traditional and administrative mandamus. "... administrative mandamus did not thereby acquire a separate and distinctive legal personality. It is not a remedy removed from the general law of mandamus or exempted from the latter's established principles, requirements and limitations." (*Grant v. Board of Medical Examiners* (1965) 232 Cal.App.2d 820, 826 [43 Cal.Rptr. 270].)*149 "... mandamus pursuant to section 1094.5, commonly denominated 'administrative' mandamus, is manda-

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mus still.... The full panoply of rules applicable to 'ordinary' mandamus applies to 'administrative' mandamus proceedings, except where modified by statute...." (*Woods v. Superior Court* (1981) 28 Cal.3d 668, 673-674 [170 Cal.Rptr. 484, 620 P.2d 1032].) The established mandamus procedures and rules of pleading (§ 1109) govern proceedings to obtain judicial review of administrative agency actions. (*Felice v. Inglewood* (1948) 84 Cal.App.2d 263, 267 [190 P.2d 317]; *Scannell v. Wolff* (1948) 86 Cal.App.2d 489, 492 [195 P.2d 536].)

(2)The court will issue an alternative writ when the petition sufficiently alleges a cause of action which, if proven, could lead to the issuance of a final or peremptory writ. (*Joerger v. Superior Court* (1934) 2 Cal.App.2d 360, 363 [37 P.2d 1084].) Administrative proceedings should be completed before the issuance of a judicial writ. (*McPheeters v. Board of Medical Examiners* (1947) 82 Cal.App.2d 709, 717 [187 P.2d 116].) The writ is not a final court adjudication but is merely an order for the agency to show cause or, in the "alternative," to comply. The agency is placed on notice that petitioners have made a sufficient showing to cast doubt upon the validity of its decision. Although it may be expected that the agency will file an answer to the writ, compliance is among the acceptable responses (§§ 1087, 1089, 1104, 1109), and it terminates the litigation. (*George v. Beaty* (1927) 85 Cal.App. 525, 529 [260 P. 386].)

(3)When the agency files a return which indicates compliance with the alternative writ, the petition is subject to dismissal for mootness. (*Bruce v. Gregory* (1967) 65 Cal.2d 666 [56 Cal.Rptr. 265, 423 P.2d 193].) "... [I]f the respondent has complied with the petitioner's demands after issuance of the alternative writ, the writ has accomplished the purpose of the mandamus proceedings and the petition should be dismissed as moot. [Citations.] The rationale is, 'No purpose would be served in directing the doing of that which has already been done.' [Citations.] In *George v. Beaty*, 85 Cal.App. 525 [260 P. 386], the court said: '[T]he remedy of *mandamus* will not be employed where the respondents show that they are willing to perform the duty without the coercion of the writ.... "*Mandamus* will not issue to compel the doing of an act which has already been done, *or which the respondent is willing to do without coercion*'...."' (P. 529.) '[W]here the return to the alternative writ shows a compliance therewith, the petition will be dismissed.' (P. 532.)" (*Id.*, at p. 671.)

(4)It is true, as OSOLOA argues, that in the absence of express statutory authority, an administrative agency may not change a determination made on the facts presented at a full hearing once its decision has become final. (*Olive Proration etc. Com. v. Agri. etc. Com.* (1941) 17 Cal.2d 204, ***150** 209 [109 P.2d 918].) Therefore, at the time the petition was filed the Commission lacked authority to modify or revoke its original decision, which had become final. (5a)It does not follow that the Commission was without power to comply with a judicial alternative writ.

The SOS petition did not incorporate the administrative record, but it alleged with specificity the ways in which the Commission's original decision violated the policies expressed in the Coastal Act. The court determined that a sufficient showing was made and the alternative writ issued 10 days after the petition was served on the Commission and Oxnard. (§§ 1088, 1107.) The writ commands "the party to whom it is directed immediately after the receipt of the writ, or at some other specified time, to do the act required to be performed, or to show cause before the court at a time and place then or thereafter specified by a court order why he has not done so." (§ 1087.)

The alternative writ of mandamus differs from its counterpart in prohibition, which forecloses all agency action pending hearing to determine the necessity for a permanent injunction. (§ 1104.) To the contrary, the alternative writ of mandamus orders the party to whom it is directed to take action in compliance "or" to show cause. (§ 1087.) The Commission was thereby authorized to determine whether to defend its original decision or comply with the writ until it was quashed or discharged. (6)The presumption that the Commission acted regularly and in the public interest in reaching its original decision applies equally to its action complying with the writ. (Coastal Act, § 30004, subd. (b).) This presumption is not affected by an interim change in the membership on the Commission, as OSOLOA argues.

(7)Oxnard attempts to differentiate administrative mandamus (§ 1094.5) requesting a judicial order to vacate a final administrative decision, from traditional mandamus (§ 1085) seeking a judicial order to compel performance of a ministerial act. Because the Commission here performed an adjudicatory function

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(*Yost v. Thomas* 36 Cal.3d 561 [205 Cal.Rptr. 801, 685 P.2d 1152]), Oxnard argues that procedural due process requires notice and a hearing before its decision can be vacated. (*Horn v. County of Ventura* (1979) 24 Cal.3d 605, 612 [156 Cal.Rptr. 718, 596 P.2d 1134].) Administrative mandamus, however, is a statutory procedure for initiating judicial review of an agency decision which is otherwise accorded a presumption of regularity. Although the agency may defend its decision, neither statutory authority nor judicial precedent require that response. Furthermore, in the absence of an express requirement that a public hearing be conducted, due process is not violated when an agency obviates judicial review by vacating its decision in voluntary compliance with the writ. ***151**

(8a)OSOLOA argues, nevertheless, that in view of the constitutional issues affecting the property interests held by the interveners, the Commission was required to extend full procedural due process, including a public hearing, before vacating its decision. The presence of an intervener, however, does not bar agency compliance with a judicial order in the form of an alternative writ.

The allegations of OSOLOA's complaint established that its members were entitled to intervene because their property interests were affected by the Commission's decision. (*Hospital Council of Northern Cal. v. Superior Court* (1973) 30 Cal.App.3d 331, 336 [106 Cal.Rptr. 247]; *Linder v. Vogue Investments, Inc.* (1966) 239 Cal.App.2d 338, 343-344 [48 Cal.Rptr. 633].) (9)The ability of intervenors to control the litigation is, nonetheless, circumscribed because they are bound by the status of the proceedings at the time of intervention. (*Linder v. Vogue Investments, Inc., supra.*, 239 Cal.App.2d at p. 344;*Townsend v. Driver* (1907) 5 Cal.App. 581 [90 P. 1071].) Intervenors, therefore, may not retard the principal suit, delay trial, or change the position of the parties. (*Hibernia etc. Society v. Churchill* (1900) 128 Cal. 633, 636 [61 P. 278].)

(8b)When OSOLOA intervened, the alternative writ had already issued and OSOLOA did not take immediate action to recall, discharge, or otherwise stay operation of the writ. (*Marc Bellaire, Inc. v. Fleischman* (1960) 185 Cal.App.2d 591, 597 [8 Cal.Rptr. 650].) Because the mere presence of an intervener does not stay operation of the alternative writ, the Commission still retained the option of compliance. After the Commission's return was filed, the court had no further authority, the matter was moot, and the third party interveners could not compel the court to take further action. When a return to the writ is filed indicating compliance with the court's order, there is no need for the court to make a further determination concerning the peremptory writ.

Moreover, the desire of the members of OSOLOA to build homes on their oceanfront lots did not turn into a constitutional right because of the Commission's original decision. (Cal. Const., art. I, § 19.)(10)A California property owner has no vested right in an existing or anticipated land use plan, designation or zoning classification. (*HFH, Ltd. v. Superior Court* (1975) 15 Cal.3d 508, 516 [125 Cal.Rptr. 365, 542 P.2d 237],cert. den., 425 U.S. 904 [47 L.Ed.2d 754, 96 S.Ct. 1495]; *Cormier v. County of San Luis Obispo* (1984) 161 Cal.App.3d 850 [207 Cal.Rptr. 880].) Nor has he a cause of action for unconstitutional taking or damaging of his property due to the adoption of particular conditions for development (*Agins v. City of Tiburon* (1979) 24 Cal.3d 266 [157 Cal.Rptr. 372, 598 P.2d 25],affd. (1980) 447 U.S. 255 [65 L.Ed.2d 106, 100 S.Ct. 2138]) or any portion of *152 an LUP. (*Selby Realty Co. v. City of San Buenaventura* (1973) 10 Cal.3d 110, 121 [109 Cal.Rptr. 799, 514 P.2d 111].) An exception may be made for a developer who has acquired a vested interest in completion of a public construction project by a good faith investment of time or money. (*Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785 [132 Cal.Rptr. 386, 553 P.2d 546],cert. den., 429 U.S. 1083 [51 L.Ed.2d 529, 97 S.Ct. 1089]; *Transcentury Properties, Inc. v. State of California* (1974) 41 Cal.App.3d 835 [116 Cal.Rptr. 487].)

(11)The paramount concern of the Commission is the protection of the coastal area for the benefit of the public. The predominant goal of the Coastal Act is the protection of public access and preservation of the fragile coastal ecology from overzealous encroachment. The objectives of the Coastal Act are succinctly stated by Justice Mosk in *Pacific Legal Foundation v. California Coastal Com.* (1982) 33 Cal.3d 158, 162-163 [188 Cal.Rptr. 104, 655 P.2d 306] as follows:

"Growing public consciousness of the finite quantity

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and fragile nature of the coastal environment led to the 1972 passage of ... an initiative measure entitled the California Coastal Zone Conservation Act (the 1972 Coastal Act). (Former Pub. Resources Code, §§ 27000-27650.) [¶] ... [¶] One of the stated purposes of the 1972 Coastal Act was to increase public access to the coast. The 1972 Coastal Act was an interim measure, destined by its own terms to expire at the beginning of 1977. It authorized the interim coastal commission to prepare a study summarizing the progress of planning in the coastal zone and delineating goals and recommendations for the future of California's shoreline for the guidance of the Legislature. The study, labeled the California Coastal Plan, was completed in December 1975 and submitted to the Legislature, which used it as a guide when drafting the California Coastal Act of 1976 (the Coastal Act). (Pub. Resources Code, § 30000 et seq.) The Coastal Act created the California Coastal Commission (the Commission) to succeed the California Coastal Zone Conservation Commission. One of the objectives of the 1976 version of the Coastal Act was to preserve existing public rights of access to the shoreline and to expand public access for the future."

(8c)We presume that the Commission acted in accordance with the Coastal Act objectives when it set aside its prior decision. Because the Commission was not required under the circumstances of this case to conduct a public hearing to determine its response to the writ, its action did not deprive interveners of procedural due process.

(5b)The Coastal Act prescribes procedures for Commission approval and certification of land use plans submitted by local governments of coastal *153 area communities. (Pub. Resources Code, § 30512, subd. (e).) In this case, Oxnard prepared and submitted an original LUP, which Regional had approved, and which was presented for the first time to the Commission for approval and certification. (Pub. Resources Code, §§ 30511, 30513.)The Commission conditionally certified the LUP and returned it to Oxnard with instructions to make the required provisions for public beach access. (Pub. Resources Code, § 30500, subd. (a).)

Coastal Act section 30512, subdivision (d) states: "If the Commission refuses certification, in whole or in part, it shall send a written explanation for such action to the appropriate local government and regional commission. A revised land use plan may be resubmitted directly to the Commission for certification." The Commission's decision notified Oxnard of the modifications that should be made before the LUP was resubmitted to the Commission for certification. The returns filed by the Commission, however, vacated the conditional certification of the LUP as to Oxnard Shores and thus reopened the entire subject of development on oceanfront property. We conclude from our analysis of the Coastal Act that the public hearing process shall be initiated anew as to Oxnard Shores upon resubmission of the LUP.

The Commission adopts its own rules and regulations to carry out the purposes of the Coastal Act. (Pub. Resources Code, § 30333.)The Coastal Act requires the Commission to obtain the full and adequate participation by all interested groups and the public in its works and programs. (Pub. Resources Code, § 30339, subds. (b), (d).) Among other things, the Coastal Act seeks to insure open consideration and effective public participation in Commission proceedings. (Pub. Resources Code, § 30006.)

A public hearing is required at the time the Commission considers an original submission of a land use plan. Although the Coastal Act is not explicit in this regard, the reasonable inference from the statutory scheme is that the portion of the Oxnard LUP dealing with Oxnard Shores must, upon resubmission, be treated the same as an original submission. It will, therefore, receive a hearing with public participation and the full panoply of procedural safeguards. (Pub. Resources Code, § 30512.)

In view of our determination that the Commission's action in compliance with the alternative writ was a valid exercise of its authority, we do not reach the additional issues relating to the Commission's action or OSOLOA's supplemental complaint.

(12)SOS was improperly ordered to pay costs to OSOLOA, which is an "unincorporated association of residents within Oxnard Shores," and to *154 Oxnard pursuant to section 1032. (*City of Long Beach v. Bozek* (1982) 31 Cal.3d 527 [183 Cal.Rptr. 86, 645 P.2d 137], judg. vacated and cause remanded(1983) 459 U.S. 1095 [74 L.Ed.2d 943, 103 S.Ct. 712], reiterated (1983) 33 Cal.3d 727 [190 Cal.Rptr. 918, 661 P.2d 1072].) This order is stricken.

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(5c)The trial court improperly ordered the returns stricken pursuant to OSOLOA's motion on May 20, 1982, and held the Commission's action was invalid on February 23, 1983. The order and judgment are, and each is, reversed.

II

(13)OSOLOA on cross-appeal contends that the trial court abused its discretion in denying motions to require SOS, Samuel Goldfarb or the Commission to pay its attorneys fees on a "private attorney general" theory. (§ 1021.5.)These motions were denied because the court concluded that an order for payment of fees would unconstitutionally infringe the rights of SOS and its individual members to petition a governmental entity for redress of grievances. (Cal. Const., art. I, § 3; *City of Long Beach v. Bozek, supra.*, 31 Cal.3d 527, 534.) The court further found that OSOLOA did not vindicate or enforce a right which conferred a significant benefit on the general public, since its members merely desired to construct residences on their oceanfront lots. (*Pacific Legal Foundation v. California Coastal Com., supra.*, 33 Cal.3d 158, 167.) The public's interests were represented by Oxnard and the Commission. (See *Grimsley v. Board of Supervisors* (1985) 163 Cal.App.3d 672, 678 [209 Cal.Rptr. 587] and 169 Cal.App.3d 960 [213 Cal.Rptr. 108];*People* ex rel. *Deukmejian v. Worldwide Church of God* (1981) 127 Cal.App.3d 547, 556 [178 Cal.Rptr. 913].)

There was no showing that the litigation was necessary or that the lawsuit placed a burden on OSOLOA members out of proportion to their individual interests in the matter. (*County of Inyo v. City of Los Angeles* (1978) 78 Cal.App.3d 82, 89 [144 Cal.Rptr. 71]; *Woodland Hills Residents Assn. v. City Council* (1979) 23 Cal.3d 917, 941 [154 Cal.Rptr. 503, 593 P.2d 200]; see also 34 A.L.R.4th 457 §§ 12-14.) Here, the public benefit, if any, was incidental by comparison to the purely private advantage for the members of OSOLOA. (*Schwartz v. City of Rosemead* (1984) 155 Cal.App.3d 547 [202 Cal.Rptr. 400]; *Beach Colony II v. California Coastal Com.* (1984) 151 Cal.App.3d 1107 [199 Cal.Rptr. 195] and (1985) 166 Cal.App.3d 106 [212 Cal.Rptr. 485].)

On appeal, OSOLOA's claim for attorneys fees has become moot because OSOLOA is not a successful party as required by section 1021.5. The judgment denying attorneys fees is affirmed. ***155**

The judgment declaring the Commission's action invalid is reversed and the court is instructed to accept the returns to the alternative writ which were improperly stricken.

The judgment in all other respects is affirmed because the Commission's action in compliance with the alternative writ rendered the SOS petition moot.

Each party to bear its own costs on appeal.

Stone, P. J., and Abbe, J., concurred.
Petitions for a rehearing were denied April 23, 1986, and respondent's petition for review by the Supreme Court was denied June 18, 1986. ***156**

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BEFORE THE

COMMISSION ON STATE MANDATES

STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Penal Code Sections 12025, 12031, 13012, 13014, 13023 and 13730

Statutes 1980, Chapter 1340 (SB 1447); Statutes 1982, Resolution Chapter 147 (SCR 64); Statutes 1984, Chapter 1609 (SB 1472); Statutes 1989, Chapter 1172 (SB 202); Statutes 1992, Chapter 1338 (SB 1184); Statutes 1993, Chapter 1230 (AB 2250); Statutes 1995, Chapters 803 and 965 (AB 488 and SB 132); Statutes 1998, Chapter 933 (AB 1999); Statutes 1999, Chapter 571 (AB 491); Statutes 2000, Chapter 626 (AB 715); Statutes 2001, Chapters 468 and 483 (SB 314 and AB 469); and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements and Requirements Spreadsheet, March 2000

Filed on September 6, 2002 by City of Newport Beach, Claimant and
Filed on November 22, 2002 by County of Sacramento, Claimant

Case Nos.: 02-TC-04 & 02-TC-11

Crime Statistics Reports for the Department of Justice

STATEMENT OF DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; TITLE 2, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 2.5, ARTICLE 7.

Adopted on June 26, 2008

STATEMENT OF DECISION

The Commission on State Mandates (Commission) heard and decided this test claim during a regularly scheduled hearing on June 26, 2008. Juliana Gmur of MAXIMUS represented claimants City of Newport Beach and County of Sacramento, and Glenn Everroad, represented claimant City of Newport Beach. Carla Castañeda and Donna Ferebee represented the Department of Finance.

The law applicable to the Commission's determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the staff analysis to partially approve the test claim at the hearing by a vote of 7-0.

Summary of Findings

The Commission finds that, beginning July 1, 2001, the test claim statutes impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following:

- A local government entity responsible for the investigation and prosecution of a homicide case to provide the California Department of Justice (DOJ) with demographic information about the victim and the person or persons charged with the crime, including the victim's and person's age, gender, race, and ethnic background (Pen. Code, §13014).
- Local law enforcement agencies to report, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability, or gender or national origin (Pen. Code, §13023).
- For district attorneys to report annually on or before June 30, to the Attorney General, on profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under section 12025 (carrying a concealed firearm) or section 12031 of the Penal Code (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information. The Commission finds that this is a reimbursable mandate from July 1, 2001 (the beginning of the reimbursement period for this test claim) until January 1, 2005 (Pen. Code, §§ 12025 subd. (h)(1) & (h)(3) & 12031 subd. (m)(1) & (m)(3)).
- For local law enforcement agencies to support all domestic-violence related calls for assistance with a written incident report (Pen. Code, § 13730, subd. (a), Stats. 1993, ch. 1230).

The Commission also finds that all other test claim statutes and alleged executive order do not constitute a reimbursable state-mandated program. Neither Penal Code section 13012, nor the "Criminal Statistics Reporting Requirements" and "Requirements Spreadsheet" (March 2000), impose state-mandated requirements on local agencies or school districts.

BACKGROUND

This test claim alleges crime statistics reporting activities that are required of, depending on the type of report, city and county law enforcement agencies, county probation departments, and district attorneys.

The Uniform Crime Reporting (UCR) Program is a city, county and state law enforcement program that provides a nationwide view of crime based on the submission of statistics by law enforcement agencies throughout the country. The crime data are submitted either to a state UCR Program or directly to the national UCR Program, administered by the Federal Bureau of Investigation (FBI). The International Association of Chiefs of Police (IACP) envisioned the need for statistics on crime in the 1920s. The IACP's Committee on Uniform Crime Records is a voluntary national data collection effort begun in 1930. Crime data are, for the most part,

collected monthly by the UCR Program. The FBI provides report forms, tally sheets, and self-addressed envelopes to agencies that complete the forms and return them directly to the FBI.

In 1955, California enacted laws requiring the state's participation in the UCR Program. At the same time, it authorized and directed the California DOJ to collect, maintain and analyze criminal statistics beyond the scope of the UCR Program.

Penal Code section 13010[1] requires DOJ to collect from state and local entities, on forms developed by DOJ, data necessary for the "work of the department." (Department is used in the statutes to mean DOJ.) Penal Code section 13010 also provides that DOJ shall: (1) recommend the form and content of records to be maintained by the state and local entities; (2) instruct them in the installation, maintenance and use of such records; (3) process, tabulate, analyze and interpret the data collected; (4) supply data to the FBI and others engaged in the collection of national criminal statistics; (5) present to the Governor an annual report containing the criminal statistics of the preceding calendar year; and (6) present at such other times as the Attorney General may approve reports on special aspects of criminal statistics (Pen. Code, § 13010, subs. (c) – (g)).

Since 1955 Penal Code section 13020 has imposed a duty on city marshals, chiefs of police, district attorneys, city attorneys, city prosecutors having criminal jurisdiction, probation officers and others, including:

> [E]very other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General:
> (a) To install and maintain records needed for the correct reporting of statistical data required by him or her.
> (b) To report statistical data to the department at those times and in the manner that the Attorney General prescribes.
> (c) To give to the Attorney General, or his or her accredited agent, access to statistical data for the purpose of carrying out this title. (Pen. Code, § 13020.)

Since 1955, cities and counties have had the obligation to provide DOJ with criminal statistics used in the UCR Program, as well as those needed for the annual report to the Governor and other reports on special aspects of criminal statistics.

Test Claim Statutes

Annual DOJ report to the Governor: Penal Code section 13012 requires DOJ's annual report to the Governor to contain specified data. It was amended in 1980 to require inclusion of "the number of citizens' complaints received by law enforcement agencies under Section 832.5…" (Stats. 1980, ch. 1340, eff. Sept. 30, 1980.)

Subdivision (c) of section 13012 was amended in 1995 to add the following underlined provision: "The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, <u>including those in the juvenile justice system,</u> in dealing with criminals or delinquents." It was amended again by Statutes 2001, chapter 486 to add the following subdivision (e):

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[1] All references are to the Penal Code unless otherwise indicated.

(e) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies, including those in the juvenile justice system, in dealing with minors who are the subject to a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.

Homicide reports: Penal Code section 13014 requires DOJ to collect information on all homicide victims and persons charged with homicides, to adopt and distribute homicide reporting forms and to compile the reported homicide information and annually publish a report about it. Subdivision (b) states: "Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime." (Stats. 1992, ch. 1338.)

Hate crime reports: Penal Code section 13023, as originally enacted in 1989, provided:

> Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability. (Stats. 1989, ch. 1172.)

Section 13023 also requires DOJ to file annual reports on the hate crime data. Statutes 1998, chapter 933 added the requirement to include 'gender' to the victim characteristics, and Statutes 2000, chapter 626 added 'national origin' to the victim characteristics.

Concealed and loaded firearms reports: Penal Code section 12025 defines when a person is guilty of carrying a concealed firearm, defines punishments for doing so, states a minimum sentence with exceptions, and defines lawful possession of the firearm. It was amended by Statutes 1999, chapter 571 to add a reporting provision in subdivision (h) as follows:

> (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.
> (2) The Attorney General shall submit annually a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).
> (3) This subdivision shall remain operative until January 1, 2005, and as of that date shall be repealed.

Similarly, section 12031 defines when a person is guilty of carrying a loaded firearm in a public place, and when a person is not guilty of doing so. It was amended by Statutes 1999, chapter 571 to add a reporting provision in subdivision (m) as follows:

> (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and

ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.
(2) The Attorney General shall submit annually, a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).
(3) This subdivision shall remain operative only until January 1, 2005.

Domestic violence reports: Penal Code section 13730 requires local law enforcement agencies to develop a system for recording all domestic violence-related calls for assistance. Enacted by Statutes 1984, chapter 1609, subdivision (a) requires each law enforcement agency to develop a system for recording all domestic violence-related calls for assistance, including whether weapons are involved. Subdivision (b) requires the Attorney General to report annually to the Governor and Legislature on the total number of domestic violence-related calls received by California law enforcement agencies. Subdivision (c) requires law enforcement agencies to develop a domestic violence incident report form for the domestic violence calls, with specified content. It also requires written reports for domestic-violence related calls for assistance.

The Legislature amended subdivision (a) (Stats. 1993, ch. 1230) to state that "all domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident."

Reports for crime victims age 60 or older: Senate Resolution No. 64 (Stats. 1982, ch. 147) states in relevant part:

> Resolved by the Senate of the State of California, the Assembly thereof concurring,
> That local law enforcement officials are requested to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older; and be it further Resolved,
> That the Department of Justice is requested to solicit and collect information from local law enforcement agencies concerning the ages and victims of crime and to incorporate that information in its crime statistic reporting system…

Criminal Justice Statistics Center Documents: Also included in the claim is the "Criminal Justice Reporting Requirements" (March 2000) and the "Criminal Statistics Reporting Requirements Spreadsheet" both promulgated by the Department of Justice, Criminal Justice Statistics Center. The introduction to the Reporting Requirements (former) document states:

> This document provides general guidelines to law enforcement agencies, District Attorneys, Public Defenders, and Probation Departments regarding their reporting requirements to the Department of Justice's Criminal Justice Statistics Center (CJSC). For each reporting requirement there is a brief description of what data is collected (introduction), which agencies are required to report the data (who), the code sections(s) that require reporting (why), the due date of the report (when), and the form or alternative method required to be used to report the data (how).

The Table of Contents of this document has sections on arrests, crimes and clearances, arson offenses, homicides, hate crimes, law enforcement officers killed or assaulted, domestic violence related calls for assistance, violent crimes committed against senior citizens, death in custody, adult probation, juvenile court and probation statistical system,

concealable weapons statistical system, hate crime prosecution survey, law enforcement and criminal justice personnel survey, and citizens' complaints against peace officers survey.

The spreadsheet has rows for each of the categories in the Table of Contents above, and columns indicating the reporting agency, reporting frequency, statutory authority, reporting form, and whether electronic reporting is available for each crime or category.

Related Commission Decisions

The Commission has issued four decisions on various versions of Penal Code section 13730 regarding domestic violence reports, as follows.

***Domestic Violence Information*, CSM 4222:** In 1987, the Commission approved this test claim on Penal Code section 13730, as added by Statutes 1984, chapter 1609. The parameters and guidelines for *Domestic Violence Information* authorize reimbursement for local law enforcement agencies for the "costs associated with the development of a Domestic Violence Incident Report form used to record and report domestic violence calls," and "for the writing of mandated reports which shall include domestic violence reports, incidents or crime reports directly related to the domestic violence incident."

Beginning in fiscal year 1992-93, the Legislature suspended Penal Code section 13730 (as added by Stats. 1984, ch. 1609) pursuant to Government Code section 17581. Suspending a statute means the Legislature assigns a zero-dollar appropriation to the program and makes it optional.

***Domestic Violence Training and Incident Reporting*, CSM 96-362-01:** In February 1998, the Commission considered this test claim on the 1995 amendment to Penal Code section 13730, subdivision (c) (Stats. 1995, ch. 965). This amendment requires law enforcement agencies to include in the domestic violence incident report information relating to the use of alcohol or controlled substances by the alleged abuser, and any prior domestic violence responses to the same address.

The Commission determined that the additional information on the domestic violence incident report was not mandated by the state because the suspension of the statute under Government Code section 17581 made the completion of the incident report optional, so the additional information under the test claim statute came into play only after a local agency elected to complete the incident report.

Based on the language of the suspension statute (Gov. Code, § 17581), the Commission determined, however, that during periods when the state operates without a budget, the original suspension of the mandate would not be in effect. Thus, for the periods when the state operates without a budget until the Budget Act is chaptered and makes the domestic violence incident reporting program optional under Government Code section 17581, the Commission determined the activities required by the 1995 amendment to Penal Code section 13730 are reimbursable.

In 1998, Government Code section 17581 was amended[2] to close the gap and continue the suspension of programs during periods when the state operates without a budget. The *Domestic*

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[2] Section 17581, subdivision (a), now states the following: "No local agency shall be required to implement or give effect to any statute or executive order, or portion thereof, during any fiscal

Violence Information and Incident Reporting program has been suspended in every Budget Act since 1992 except for 2003-2004.[3]

***Crime Victims' Domestic Violence Incident Reports*, 99-TC-08:** This claim was decided by Commission on May 29, 2003 (corrected decision issued in September 2003). The Commission found it had no jurisdiction over Penal Code section 13730 (Stats. 1984, ch. 1609, Stats. 1995, ch. 965) because it had already adjudicated the statute in CSM 4222, *Domestic Violence Information,* and in CSM 96-362-01, *Domestic Violence Training and Incident Reporting.* The Commission also found that the mandate had been suspended by the Legislature every year since 1992-1993, making the activities discretionary on the part of local government.

***Crime Victims' Domestic Violence Incident Reports II*, 02-TC-18:** This claim, originally submitted as an amendment to (and severed from) test claim 99-TC-08, was adopted September 27, 2007. The Commission found that effective January 1, 2002, Penal Code section 13730, subdivision (c)(3) (Stats. 2001, ch. 483) imposes a reimbursable state-mandated program for local agencies, on all domestic violence-related calls for assistance, to include on the domestic violence incident report form a notation of whether the officer or officers who responded to the domestic violence call found it necessary, for the protection of the peace officer or other persons present, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon was present at the location, and, if there is an inquiry, whether that inquiry disclosed the presence of a firearm or other deadly weapon (Pen. Code, § 13730, subd. (c)(3)).

The Commission noted in the analysis that no test claim had been filed on section 13730 as amended by Statutes 1993, chapter 1230, which added to subdivision (a) "All domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident."

Claimants' Position

Claimants City of Newport Beach and County of Sacramento filed separate test claims to seek reimbursement based on article XIII B, section 6 of the California Constitution for criminal statistics reporting duties. The test claims do not contain specific activities beyond quoting the language of the test claim statutes. Both test claims estimate that the costs will substantially exceed $1000.00 per year. On September 26, 2007, the Executive Director consolidated the two test claims.

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year and the for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year . . ."

[3] 2007-2008 Budget Act (Stats. 2007, chs. 171 & 172) Item 8885-295-0001, Schedule (3)(aa); 2006-2007 Budget Act (Stats. 2006, chs. 46 & 47) Item 8885-295-0001, Schedule (3) (aa); 2005-2006 Budget Act (Stats. 2005, chs. 38 & 39) Item 8885-295-0001, Schedule (3) (hh); 2004-2005 Budget Act (Stats. 2004, ch. 208) Item 9210-295-0001, Provision 3, Schedule (5); 2002-2003 Budget Act (Stats. 2002, ch. 379), Item 9210-295-0001, Provision 3, Schedule (8); 2001-2002 Budget Act (Stats. 2001, ch. 106), Item 210-295-0001, Provision 3, Schedule (8); 2000-2001 Budget Act (Stats. 2000, ch. 52), Item 210-295-0001, Provision 3, Schedule (8); 1999-2000 Budget Act (Stats. 1999, ch. 50), Item 210-295-0001, Provision 2, Schedule (8).

Claimants submitted joint comments on March 3, 2003, rebutting those of the Department of Finance and DOJ. Regarding DOJ's comment about the city claimant claiming costs for county entities, claimants note that the claim has been joined by County of Sacramento. Claimants made other substantive comments that are discussed below.

Claimant County of Sacramento submitted comments on March 11, 2008 concurring with the draft staff analysis except for the discussion of Penal Code section 13012, which is addressed below.

State Agency Positions

Department of Justice: In comments submitted in January 28, 2003, the DOJ's Criminal Justice Statistics Center commented on each test claim statute individually. DOJ stated that the reports in the test claim statutes that are "required" are in Penal Code sections 13012 (citizen complaints and juvenile offender information), 13023 (hate crimes), 12025 (concealed firearms) and 12031 (loaded firearms in a public place).

As to domestic violence reports (§ 13730), DOJ commented that its report has not changed since 1986, and that the amendments to section 13730 relate to local law enforcement's internal documentation that have nothing to do with DOJ reporting requirements.

Regarding homicide reporting in section 13014, DOJ states that the statute did not add new requirements because the same demographic information has been required since at least 1975, and that no additional information was required as a result of Penal Code section 13014. As to reporting on victims of violent crimes who are 60 years of age or older, DOJ states that the Legislature did not mandate local law enforcement to report this information.

For some activities imposed on county district attorneys or county probation officers, DOJ states that "the City of Newport Beach has not explained how it is responsible for costs associated with this reporting requirement."

DOJ's comments are discussed in more detail below.

Department of Finance: In its October 24, 2002 comments, Finance states that except for one test claim statute, the statutes "may have resulted in a new higher level of service as a result of requiring local law enforcement agencies to keep statistical data on the frequency, types and nature of criminal offenses, in addition to requiring these agencies to submit this data to the Department of Justice."

As to Penal Code section 13730, Finance asserts that the Commission has previously determined it to be a state-mandated program and it was subsequently suspended by the Legislature (Gov. Code, § 17581). Regarding this statute, Finance states:

> Chapter 483, Statutes of 2001 [amending Pen. Code, § 13730] would add an additional requirement to the existing mandate. However, since the mandate is suspended, implementation would be at the option of local government. This interpretation is consistent with a decision adopted by the Commission ... on January 29, 1998, [*Domestic Violence Training and Incident Reporting,* CSM 96-362-01] regarding earlier changes to the same code section. Therefore it does not seem appropriate to include references to these chapters as a part of this claim.

Finance submitted comments on March 7, 2008, concurring with the draft staff analysis.

COMMISSION FINDINGS

The courts have found that article XIII B, section 6 of the California Constitution[4] recognizes the state constitutional restrictions on the powers of local government to tax and spend.[5] "Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."[6] A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.[7]

In addition, the required activity or task must be new, constituting a "new program," or it must create a "higher level of service" over the previously required level of service.[8]

The courts have defined a "program" subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.[9] To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim

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[4] Article XIII B, section 6, subdivision (a), (as amended in Nov. 2004) provides:

> (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

[5] *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

[6] *County of San Diego v. State of California (County of San Diego)*(1997) 15 Cal.4th 68, 81.

[7] *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

[8] *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.*); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

[9] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar, supra,* 44 Cal.3d 830, 835.)

legislation.[10] A "higher level of service" occurs when the new "requirements were intended to provide an enhanced service to the public."[11]

Finally, the newly required activity or increased level of service must impose costs mandated by the state.[12]

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.[13] In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[14]

Each statute is discussed separately to determine whether it is a reimbursable state-mandate.

Do the test claim statutes or alleged executive orders impose a reimbursable state-mandated program within the meaning of article XIII B, section 6?

Annual DOJ Report to the Governor - Penal Code section 13012

Penal Code section 13012 requires DOJ's annual report to contain specified data. Section 13012 was amended by Statutes 1980, chapter 1340 (eff. Sept. 30, 1980) to require inclusion of "the number of citizens' complaints received by law enforcement agencies under Section 832.5."

Subdivision (c) of section 13012 was amended in 1995 (ch. 803) to add the following underlined provision: "The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, <u>including those in the juvenile justice system,</u> in dealing with criminals or delinquents." It was amended again by Statutes 2001, chapter 486 to add the following subdivision (e):

> (e) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies, including those in the juvenile justice system, in dealing with minors who are the subject to a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.

Section 13012 by itself only specifies the content of a DOJ report, not a report by a local agency. It refers to the "annual report of the department provided for in Section 13010...." Section 13010 states: "It shall be the duty of the department [of Justice]: (a) To collect data necessary for the

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[10] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 878; *Lucia Mar, supra,* 44 Cal.3d 830, 835.

[11] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 878.

[12] *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

[13] *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

[14] *County of Sonoma, supra,* 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

department from all persons and agencies mentioned in Section 13020 and from any other appropriate source;" Section 13020, in turn, requires the local agency reports. Section 13020 was not pled by claimants, nor was section 13010. Nor are these sections incorporated by reference into section 13012, the test claim statute. For these reasons, the Commission has no jurisdiction to make determinations on sections 13010 and 13020.[15]

Claimant County of Sacramento, in March 2008 comments on the draft staff analysis, states that section 13020 was "included as part of the original test claim." Claimant cites the following sentence in the test claim: "Pursuant to Penal Code §§ 13020 and 13021, local law enforcement were required to comply with the DOJ and begin collecting statistical crime data." Claimant states:

> [S]ection 13020 was part of a pre-existing program. It is the expansion of that program which is the subject of the instant test claim. The statute was cited as an overarching requirement. It was not part of the addition of the test claim statutes addressing the various new reports. The section was specifically pleaded, as set forth above, in the opening paragraph of the test claim to set the stage for the statutory changes that created new requirements under the existing program.

Although it is mentioned as preexisting law, the test claim does not expressly plead section 13020. On page 6 of both test claims, claimants cite the "specific statutory sections that contain the mandated activities" and do not mention section 13020. Nor are any of the statutes and chapters that enacted or amended section 13020 cited in the test claim.[16] Thus, the Commission finds that section 13020 was not pled in the test claim.

Therefore, the Commission finds that section 13012 (Stats. 1980, ch. 1340, Stats. 1995, ch. 803 & Stats. 2001, ch. 486) by itself, does not impose a state-mandated activity on a local government, and therefore it is not a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.

The next issue is whether there is a state mandate to report the citizen complaint and juvenile justice data based on the "Criminal Statistics Reporting Requirements" and "Requirements Spreadsheet" (March 2000) promulgated by the California Department of Justice, Criminal Justice Statistics Center (CJSC). These CJSC documents were pled by claimants in the test claims.

The Commission only has jurisdiction over statutes and executive orders (Gov. Code, §§ 17551 & 17514). Thus, the issue is whether the CJSC documents are executive orders within the meaning of Government Code section 17516. This section defines an executive order as: "any order, plan, requirement, rule, or regulation issued by any of the following: (a) The Governor.

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[15] Sections 13010, 13012 and 13020 were enacted before 1975 and therefore are not subject to article XIII B, section 6, subdivision (a)(3) of the California Constitution.

[16] Section 13020 was enacted by Statutes 1955, chapter 1128, and amended by Statutes 1965, chapter 238, Statutes 1965, chapter 1916, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1996, chapter 872.

(b) Any officer or official serving at the pleasure of the Governor. (c) Any agency, department, board, or commission of state government."

The "Criminal Statistics Reporting Requirements" document states, under the first "Introduction:"

> This document provides general guidelines to law enforcement agencies, District Attorneys, Public Defenders, and Probation Departments regarding their reporting requirements to the Department of Justice's Criminal Justice Statistics Center (CJSC). For each reporting requirement there is a brief description of what data is collected (introduction), which agencies are required to report the data (who), the code sections(s) that require reporting (why), the due date of the report (when), and the form or alternative method required to be used to report the data (how).

Under the heading "Citizen Complaints against Peace Officers Survey" there is another introduction that states: "Agencies are to report to DOJ statewide summary information on the number of non-criminal and criminal (misdemeanor and felony) complaints reported by citizens to law enforcement agencies, and the number of complaints that were sustained." Under the heading "Why," only Penal Code section 13012 is quoted.

The Spreadsheet also imposes no requirements, but contains descriptions of the statutory reporting requirements.

Therefore, even if the Commission were to find that the CJSC documents are executive orders within the meaning of Government Code section 17516, the documents still do not mandate the reporting of the citizen complaint information by local agencies. The language used in the document is not mandatory, as it refers to itself as "general guidelines." Therefore, the CJSC documents are not executive orders within the meaning of Government Code section 17516. Also, the CJSC document only references section 13012 for citizen complaints, the statute that specifies the content of DOJ's report. There is no reference to section 13020's local agency reporting requirement in the CJSC document.

As for reporting juvenile justice data, the CJSC document states as follows, under the heading "Juvenile Court and Probation Statistical System:" "Juvenile justice data is to be reported to DOJ to provide information on the administration of juvenile justice in California. Information is collected on a juvenile's progress through the juvenile justice system from probation intake to final case disposition." Under the "Why" portion under juvenile justice, Penal Code section 13020 and Welfare and Institutions Code section 285 are quoted, neither of which are test claim statutes.

There is no other pleading or evidence in the record, such as a letter to law enforcement agencies from DOJ, requiring local agencies to provide statistics for citizen complaints or juvenile justice data.

Thus, the Commission finds that Penal Code section 13012 (Stats. 1980, ch. 1340, Stats. 1995, ch. 803 & Stats. 2001, ch. 486) and the "Criminal Statistics Reporting Requirements" and Requirements Spreadsheet (March 2000), do not impose state-mandated activities on local agencies to report citizen complaints against peace officers and juvenile justice data to the DOJ, and therefore reimbursement is not required pursuant to article XIII B, section 6 of the California Constitution.

Homicide Reports - Penal Code Section 13014

Section 13014 was added by Statutes 1992, chapter 1338. Subdivision (b) of this section states: "Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime."

Subdivision (a) of section 13014 requires the DOJ to collect information on all homicide victims and persons charged with homicides. It also requires DOJ to adopt and distribute homicide reporting forms, and requires the department to compile the reported homicide information and annually publish a report about it.

Based on the plain meaning of the statute, the Commission finds that this section 13014, subdivision (b), imposes a state mandate on local law enforcement agencies that are "responsible for the investigation and prosecution of a homicide case" to report to the DOJ the specified data.

The Commission also finds that section 13014 constitutes a program within the meaning of article XIII B, section 6 because it carries out the governmental function of providing a service to the public[17] by collecting homicide information for DOJ to report criminal statistics, and because reporting the data is an activity that is unique to local government.

The next issue is whether this reporting is a new program or higher level of service. DOJ states, in comments submitted in January 2003, that section 13014 did not enact anything new because the demographic information it describes was already included on the Supplementary Homicide Report provided to the local entities by the DOJ. DOJ attached a report form with a revision date of July 11, 1975, to "demonstrate that the same demographic information has been required since at least 1975, and that no additional information was required as a result of the addition of Penal Code section 13014."

Claimants, in joint rebuttal comments submitted in March 2003, assert that "there is no state-mandate until the Legislature creates one" and argue as follows:

> [T]his reporting was optional at the direction of the DOJ, who could have changed its reporting requirements at any time. Nor does it change the fact that such reporting is no longer option [sic] in light of the current statutes. Now, neither the local entities nor the DOJ itself can opt not to report that which is required by law. The simple fact that the DOJ has been conscientious about devising its crime statistic reports and has ultimately foreseen the direction of the Legislature, does not defeat the existence of current state mandate [sic] and the constitutional guarantee for reimbursement of costs for local agencies.

The issue is whether the requirement to report homicides existed before the enactment of section 13014 (Stats. 1992, ch. 1338). The Commission finds there is insufficient evidence that it did.

The legislative history of section 13014 indicates that "Under current law [¶]…[¶] The Department of Justice is not required by statute to maintain data pertaining to victims of

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[17] *County of Los Angeles, supra,* 43 Cal.3d 46, 56.

homicide and persons charged with homicide."[18] This statement in the legislative history suggests that reporting the homicide data is a new program or higher level of service.

State mandates are created by either a statute or an executive order (Gov. Code, §§ 17551, subd. (a) & 17514). If DOJ did not require reporting homicide data under the authority of a statute before the test claim statute, then it may have done so under the authority of an executive order, defined as "any order, plan, requirement, rule, or regulation issued by [¶]…[¶] any agency, department, board, or commission of state government." (Gov. Code, § 17516).

There is no evidence of an executive order requiring homicide reports. The form provided by DOJ in its comments only shows that DOJ collected homicide information, but not that local agencies were required to provide it. In fact, the form DOJ submitted with its comments states: "In view of the importance of the homicide classification in crime reporting, it is *requested* that the following supplementary report be filled in and transmitted …"[19] [Emphasis added.] Since the form uses the non-mandatory language "it is requested that …." the Commission finds that reporting this homicide information prior to the test claim statute was not mandatory for local agencies.

Consequently, the Commission finds that the requirement to provide homicide information as specified in section 13014 is a new program or higher level of service.

The Commission also finds that this data collection imposes costs mandated by the state within the meaning of Government Code section 17514. Government Code section 17556 provides that the Commission shall not find costs mandated by the state if certain conditions apply. The Commission finds that no exceptions in Government Code 17556 apply to Penal Code section 13014.

Therefore, the Commission finds that Penal Code section 13014 is a reimbursable mandate for a local government entity responsible for the investigation and prosecution of a homicide case to provide DOJ with demographic information about the victim and the person or persons charged with the crime, including the victim's and person's age, gender, race, and ethnic background, beginning July 1, 2001 (the beginning of the reimbursement period for this test claim).

Hate Crime Reports - Penal Code Section 13023

As originally enacted (Stats. 1989, ch. 1172) this section stated:

> Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in

[18] Senate Third Reading analysis of Senate Bill No. 1182 (1991-1992 Reg. Sess.) as amended August 28, 1992, p. 1.

[19] Comments from the Department of Justice on Test Claim 02-TC-04, January 28, 2003, Exhibit B.

whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability.

Section 13023 also requires DOJ to file annual reports to the Legislature on the hate crime data. Statutes 1998, chapter 933 added the requirement to include 'gender' to the victim characteristics, and Statutes 2000, chapter 626 added 'national origin' to the victim characteristics.

The plain language of this statute requires the Attorney General to "direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information ..."

However, the requirement is contingent on funding, as it reads "subject to the availability of adequate funding, the Attorney General shall direct..." The funding in the statute, however, is allocated to the Attorney General, not local entities. In its comments on the test claim, the Attorney General's Office stated that "[a]lthough the hate crime legislation passed in 1989, because of a lack of funding, the DOJ did not begin collecting data until 1994." This indicates that the funding was allocated to the Attorney General's office to collect the data, not on the local agencies to report it.

Therefore, based on the mandatory language in the statute that gives neither DOJ nor local agencies discretion to refuse to comply, the Commission finds that it is a state mandate for local law enforcement agencies to report to DOJ any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage, where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, gender, national origin, or physical or mental disability.

The Commission also finds that section 13023 constitutes a program within the meaning of article XIII B, section 6 because it carries out the governmental function of providing a service to the public[20] by collecting hate crime information for DOJ to report criminal statistics, and because reporting the data is an activity that is unique to local government.

Since this reporting was not required before the test claim statute, the Commission also finds that it is a new program or higher level of service.

And the Commission finds that section 13023 imposes costs mandated by the state within the meaning of Government Code section 17514, and no exceptions in Government Code section 17556 apply.

Therefore, the Commission finds that Penal Code section 13023 is a reimbursable state-mandated program for local law enforcement agencies to report, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability, or gender or national origin, beginning July 1, 2001 (the beginning of the reimbursement period for this test claim).

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[20] *County of Los Angeles, supra,* 43 Cal.3d 46, 56.

Concealed and Loaded Firearms Reports – Penal Code Sections 12025 & 12031

Section 12025 defines when a person is guilty of carrying a concealed firearm, defines punishments for doing so, states a minimum sentence with exceptions, and defines lawful possession of the firearm. It was amended by Statutes 1999, chapter 571 to add a reporting provision in subdivision (h) as follows:

> (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.
> [¶]...[¶]
> (3) This subdivision shall remain operative until January 1, 2005, and as of that date shall be repealed.

Similarly, section 12031 defines when a person is guilty of carrying a loaded firearm in a public place, and when a person is not guilty of doing so. It was amended by Statutes 1999, chapter 571 to add a reporting provision in subdivision (m) as follows:

> (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.
> [¶]...[¶]
> (3) This subdivision shall remain operative only until January 1, 2005.

Based on the mandatory language in sections 12025, subdivision (h)(1) and 12031, subdivision (m)(1), the Commission finds that these sections impose state mandates for the district attorney to submit the reports as specified.

The Commission also finds that sections 12025, subdivision (h)(1) and 12031, subdivision (m)(1) constitute a program within the meaning of article XIII B, section 6 because they carry out the governmental function of providing a service to the public[21] by collecting concealed and loaded firearm information for DOJ to report criminal statistics, and because reporting the data is an activity that is unique to local government.

These reports were not required before enactment of the test claim legislation, so the Commission also finds that they are a new program or higher level of service.

And the Commission also finds that the reporting requirements in sections 12025 and 12031 impose costs on district attorneys that are mandated by the state within the meaning of Government Code section 17514, and that no exceptions in Government Code section 17556 apply.

Therefore, the Commission finds that it is a reimbursable state-mandated program for district attorneys to report annually on or before June 30, to the Attorney General, on profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under section 12025 (carrying a concealed firearm) or section 12031 of the Penal Code (carrying a loaded firearm in a

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[21] *County of Los Angeles, supra,* 43 Cal.3d 46, 56.

public place), and any other offense charged in the same complaint, indictment, or information. The Commission finds that this is a reimbursable mandate from July 1, 2001 (the beginning of the reimbursement period) until January 1, 2005, the statutory sunset date. (Pen. Code, §§ 12025 subd. (h)(1) & (h)(3) & 12031 subd. (m)(1) & (m)(3).)

Domestic Violence Reports – Penal Code Section 13730

Claimants pled section 13730 and its various amendments since enactment (Stats. 1984, ch. 1609, Stats, 1993, ch. 1230, Stats. 1995, ch. 965, and Stats. 2001, ch. 483). As indicated above in the background under the descriptions of prior Commission decisions, the Commission has made determinations on all these versions of section 13730 except for Statutes 1993, chapter 1230.

Based on these prior determinations, the Commission finds that it does not have jurisdiction over the other amended versions (i.e., the 1984, 1995 & 2001 amendments) of section 13730. An administrative agency does not have jurisdiction to rehear a decision that has become final.[22]

Statutes 1993, chapter 1230 added the following to subdivision (a) of section 13730: "All domestic violence related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident."

In its comments on the test claim, Finance states:

> Chapter 483, Statutes of 2001 [amending Pen. Code, § 13730] would add an additional requirement to the existing mandate. However, since the mandate is suspended, implementation would be at the option of local government. This interpretation is consistent with a decision adopted by the Commission ... on January 29, 1998, [*Domestic violence Training and Incident Reporting*, CSM 96-362-01] regarding earlier changes to the same code section. Therefore it does not seem appropriate to include references to these chapters as apart of this claim.

The Commission disagrees. In order to be suspended by the Legislature, a statute must have "been determined by the Legislature, the Commission, or any court to mandate a new program or higher level of service requiring reimbursement of local agencies..." (Gov. Code, § 17581.)

This 1993 amendment to section 13730 has never been determined by the Legislature, the Commission, or any court to mandate a new program or higher level of service requiring local agency reimbursement, as required by Government Code section 17581. Therefore, the 1993 amendment is not eligible for suspension by the Legislature.

Thus, based on the mandatory language in the statute, the Commission finds that section 13730, as amended by Statutes 1993, chapter 1230, imposes a state mandate on local law enforcement agencies to support domestic violence related calls for assistance with a written incident report. The Commission also finds that this section, as amended by Statutes 1993, chapter 1230, constitutes a program within the meaning of article XIII B, section 6 because it carries out the governmental function of providing a service to the public[23] by requiring written reports for

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[22] *Heap v. City of Los Angeles* (1936) 6 Cal.2d 405, 407. *Save Oxnard Shores v. California Coastal Commission* (1986) 179 Cal.App.3d 140, 143.

[23] *County of Los Angeles, supra,* 43 Cal.3d 46, 56.

domestic violence-related calls for assistance, and because making the reports is an activity that is unique to local government.

The next issue is whether the mandate is a new program or higher level of service. Preexisting law, before the 1993 amendment, had been suspended (pursuant to Gov. Code, § 17581) and made voluntary every year beginning fiscal year 1992-1993 as indicated above, making the amendment a newly required activity.

Moreover, preexisting law states:

> Each law enforcement agency shall develop an incident report form that includes a domestic violence identification code by January 1, 1986. In all incidents of domestic violence, a report shall be written and shall be identified on the face of the report as a domestic violence incident (Pen. Code, § 13730, subd. (c)).

Preexisting law only requires incident reports for "incidents of domestic violence" whereas the 1993 amendment requires written incident reports for "calls for assistance." Therefore, the Commission finds that the 1993 amendment to section 13730 is a new program or higher level of service.

The Commission also finds that there are costs mandated by the state, as defined by Government Code section 17514, for this mandate, and that no exceptions to reimbursement in Government Code section 17556 apply.

Therefore, the Commission finds that it is a reimbursable state-mandated program for local law enforcement agencies to support all domestic-violence related calls for assistance with a written incident report, beginning July 1, 2001 (Pen. Code, § 13730, subd. (a), Stats. 1993, ch. 1230).

Crime reports for Persons 60 or Older - Senate Resolution No. 64 (Stats. 1982, ch. 147)

Senate Resolution No. 64 (Stats. 1982, ch. 147) states in relevant part:

> Resolved by the Senate of the State of California, the Assembly thereof concurring,
> That local law enforcement officials are requested to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older; and be it further Resolved,
> That the Department of Justice is requested to solicit and collect information from local law enforcement agencies concerning the ages and victims of crime and to incorporate that information in its crime statistic reporting system...

The Commission finds that this resolution is not a state mandate within the meaning of article XIII B, section 6 of the California Constitution. First, it "requests" but does not mandate that the victim information be provided to DOJ, a fact pointed out by DOJ in its comments submitted on the test claim (and the form it promulgates to local agencies also "requests" the information). Second, the California Supreme Court has held that legislative resolutions do not have the force of law.[24]

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[24] *American Federation of Labor v. Eu* (1984) 36 Cal.3d 687, 709.

Therefore, the Commission finds that Senate Resolution No. 64 (Stats. 1982, ch. 147) is not a state mandate within the meaning of article XIII B, section 6 of the California Constitution.

CONCLUSION

For the reasons discussed above, the Commission finds that, beginning July 1, 2001, the test claim statutes cited below impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514 for the following:

- A local government entity responsible for the investigation and prosecution of a homicide case to provide DOJ with demographic information about the victim and the person or persons charged with the crime, including the victim's and person's age, gender, race, and ethnic background (Pen. Code, §13014).
- Local law enforcement agencies to report, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability, or gender or national origin (Pen. Code, §13023).
- For district attorneys to report annually on or before June 30, to the Attorney General, on profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under section 12025 (carrying a concealed firearm) or section 12031 of the Penal Code (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information. The Commission finds that this is a reimbursable mandate from July 1, 2001 (the beginning of the reimbursement period for this test claim) until January 1, 2005 (Pen. Code, §§ 12025 subd. (h)(1) & (h)(3) & 12031 subd. (m)(1) & (m)(3)).
- For local law enforcement agencies to support all domestic-violence related calls for assistance with a written incident report (Pen. Code, § 13730, subd. (a), Stats. 1993, ch. 1230).

The Commission also finds that all other test claim statutes and alleged executive order do not constitute a reimbursable state-mandated program. Neither Penal Code section 13012, nor the "Criminal Statistics Reporting Requirements" and "Requirements Spreadsheet" (March 2000), impose state-mandated requirements on local agencies or school districts.

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

COMMISSION ON STATE MANDATES
980 NINTH STREET, SUITE 300
SACRAMENTO, CA 95814
PHONE: (916) 323-3562
FAX: (916) 445-0278
E-mail: csminfo@csm.ca.gov

Exhibit E

May 7, 2009

Mr. Allan Burdick
MAXIMUS
3130 Kilgore Road.
Suite 400
Rancho Cordova, CA 95670

Mr. Glen Everroad
City of Newport Beach
3300 Newport Blvd.
P. O. Box 1768
Newport Beach, CA 92659

Ms. Nancy Gust
County of Sacramento
711 G Street
Sacramento, CA 95814

And Affected State Agencies and Interested Parties (See Enclosed Mailing List)

RE: **Draft Staff Analysis, Comment Period, and Hearing Date**
Crime Statistics Reports for the Department of Justice – Amended
07-TC-10 (02-TC-04 and 02-TC-11)
Penal Code Sections 12025, 12031, 13012, 13014, 13020, 13021, 13023, 13730
Statutes 1955, Chapter 1128; Statutes 1965, Chapters 238 and 1965; Statutes 1967, Chapter 1157; Statutes 1971, Chapter 1203; Statutes 1972, Chapter 1377; Statutes 1979, Chapter 255 and 860; Statutes 1996, Chapter 872 (AB 3472); Statutes 2004, Chapters 405 and 700 (SB 1796 and SB 1234)

Dear Mr. Burdick, Mr. Everroad, and Ms. Gust:

The draft staff analysis for this test claim is enclosed for your review and comment.

Written Comments

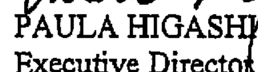
Any party or interested person may file written comments on the draft staff analysis by Thursday, **May 28, 2009**. You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. (Cal. Code Regs., tit. 2, § 1181.2.) If you would like to request an extension of time to file comments, please refer to section 1183.01, subdivision (c)(1), of the Commission's regulations.

Hearing

This test claim is set for hearing on **Friday, July 31, 2009**, at 9:30 a.m. in Room 447, State Capitol, Sacramento, CA. The final staff analysis will be issued on or about July 17, 2009. If you would like to request postponement of the hearing, please refer to section 1183.01, subdivision (c)(2), of the Commission's regulations.

Please contact Eric Feller at (916) 323-8221 if you have questions.

Sincerely,



PAULA HIGASHI
Executive Director

Enclosure
J:mandates/2007/tc/07tc10/dsatrans

ITEM

TEST CLAIM
DRAFT STAFF ANALYSIS

Penal Code Sections 12025, 12031, 13012, 13014, 13020, 13021, 13023 and 13730
Statutes 1955, Chapter 1128; Statutes 1965, Chapters 238 and 1965; Statutes 1967, Chapter 1157; Statutes 1971, Chapter 1203; Statutes 1972, Chapter 1377; Statutes 1979, Chapter 255 and 860; Statutes 1980, Chapter 1340 (SB 1447); Statutes 1982, Resolution Chapter 147 (SCR 64); Statutes 1984, Chapter 1609 (SB 1472); Statutes 1989, Chapter 1172 (SB 202); Statutes 1992, Chapter 1338 (SB 1184); Statutes 1993, Chapter 1230 (AB 2250); Statutes 1995, Chapters 803 and 965 (AB 488 and SB 132); Statutes 1996, Chapter 872 (AB 3472); Statutes 1998, Chapter 933 (AB 1999); Statutes 1999, Chapter 571 (AB 491); Statutes 2000, Chapter 626 (AB 715); Statutes 2001, Chapters 468 and 483 (SB 314 and AB 469); Statutes 2004, Chapters 405 and 700 (SB 1796 and SB 1234) and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements and Requirements Spreadsheet, March 2000

Crime Statistics Reports for the Department of Justice - Amended
07-TC-10

City of Newport Beach and County of Sacramento, Claimants

EXECUTIVE SUMMARY

This test claim alleges crime statistics reporting activities of local law enforcement agencies. The claim was originally filed as an amendment to, and severed from, test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice,* by the same claimants, which the Commission determined impose a reimbursable program on June 26, 2008.

CONCLUSION

Based on the analysis below, staff finds that Penal Code section 13023 (Stats. 2004, ch. 700) imposes a reimbursable state-mandated program, within the meaning of article XIII B, section 6 of the California Constitution, on local law enforcement agencies beginning January 1, 2004, to report the following in a manner to be prescribed by the Attorney General:

- Any information that may be required relative to hate crimes, as defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of one or more of the following *perceived* characteristics of the victim: (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.
- Any information that may be required relative to hate crimes, defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of *association with a person or group with one or more of the following actual or perceived characteristics:* (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.

Staff further finds that Penal Code sections 13020 and 13021 (Statutes 1955, chapter 1128, Statutes 1965, chapter 238, Statutes 1965, chapter 1916, Statutes 1967, chapter 1157, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1996, chapter 872) are not reimbursable state mandates within the meaning of article XIII B, section 6 of the California constitution because they existed before 1975, and impose no new activities on local agencies.

As to Statutes 1971, chapter 1203, staff finds that, because it amended only Penal Code section 13010, which is not part of this test claim, the Commission does not have jurisdiction over it.

Staff finds that Statutes 2004, chapters 405 (amending Pen. Code, § 13014, homicide reports) is not a state mandate because it does not require a local agency activity.

Staff also finds that the Commission does not have jurisdiction over the remaining statutes, chapters and executive orders in this claim because the Commission already made a determination on them in test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice.*

Recommendation

Staff recommends that the Commission adopt this analysis to partially approve the test claim for the activities in Penal Code section 13023 (Stats. 2004, ch. 700) listed above.

STAFF ANALYSIS

Co-Claimants

City of Newport Beach and County of Sacramento

Chronology

9/6/02	Claimant City of Newport Beach files test claim 02-TC-04
11/22/02	County of Sacramento files test claim 02-TC-11
3/27/08	Co-claimants file test claim amendment to test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice*
4/4/08	Commission staff notifies claimants that proposed amendment is incomplete and that claimants have 30 days to file a complete amendment
6/25/08	Co-claimants re-file test claim amendment
6/25/08	Commission staff severs test claim amendment from test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice*
7/11/08	Commission staff notifies co-claimants that test claim amendment is complete and assigned to it the number 07-TC-10
8/15/08	Department of Finance submits comments on the test claim
9/5/08	Department of Justice submits comments on the test claim
5/5/09	Commission staff issues draft staff analysis

Background

This test claim alleges crime statistics reporting activities of local law enforcement agencies.

This test claim was originally filed as an amendment to, and severed from, test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice,* by the same claimants. Test claims 02-TC-04 and 02-TC-11 were decided by the Commission on June 26, 2008, determining that the following activities are reimbursable mandates:

- A local government entity responsible for the investigation and prosecution of a homicide case to provide the DOJ with demographic information about the victim and the person or persons charged with the crime, including the victim's and person's age, gender, race, and ethnic background (Pen. Code, §13014).
- Local law enforcement agencies to report, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability, or gender or national origin (Pen. Code, §13023).

- For district attorneys to report annually on or before June 30, to the Attorney General, on profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under section 12025 (carrying a concealed firearm) or section 12031 of the Penal Code (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information. This is a reimbursable mandate from July 1, 2001 (the beginning of the reimbursement period for this test claim) until January 1, 2005 (Pen. Code, §§ 12025 subd. (h)(1) & (h)(3) & 12031 subd. (m)(1) & (m)(3)).
- For local law enforcement agencies to support all domestic-violence related calls for assistance with a written incident report (Pen. Code, § 13730, subd. (a), Stats. 1993, ch. 1230).

The Commission also found that neither Penal Code section 13012, nor the "Criminal Statistics Reporting Requirements" and "Requirements Spreadsheet" (March 2000), impose state-mandated requirements on local agencies or school districts. Penal Code section 13012 concerns only the DOJ's annual report to the Governor and did not require a local government activity.

Although it includes other statutes and executive orders, this amendment was filed because Penal Code sections 13020 and 13021 were not included in the earlier test claims. Claimants asserted that section 13020 (the duty on local law enforcement to report crime) was expanded to create the program in test claims 02-TC-04 and 02-TC-11 (see Statement of Decision, p. 11).

Uniform Crime Reporting: The Uniform Crime Reporting (UCR) Program is a city, county and state law enforcement program that provides a nationwide view of crime based on the submission of statistics by law enforcement agencies throughout the country. The crime data are submitted either to a state UCR Program or directly to the national UCR Program, administered by the Federal Bureau of Investigation (FBI). The International Association of Chiefs of Police (IACP) envisioned the need for statistics on crime in the 1920s. The IACP's Committee on Uniform Crime Records is a voluntary national data collection effort begun in 1930. Crime data are, for the most part, collected monthly by the UCR Program. The FBI provides report forms, tally sheets, and self-addressed envelopes to agencies that complete the forms and return them directly to the FBI.

In 1955, California enacted laws requiring the state's participation in the UCR Program. At the same time, it authorized and directed the California DOJ to collect, maintain and analyze criminal statistics beyond the scope of the UCR Program.

Penal Code section 13010 requires DOJ to collect from state and local entities, on forms developed by DOJ, data necessary for the "work of the department." (Department is used in the statutes to mean DOJ.) Penal Code section 13010 also provides that DOJ shall: (1) recommend the form and content of records to be maintained by the state and local entities; (2) instruct them in the installation, maintenance and use of such records; (3) process, tabulate, analyze and interpret the data collected; (4) supply data to the FBI and others engaged in the collection of national criminal statistics; (5) present to the Governor an annual report containing the criminal statistics of the preceding calendar year; and (6) present at such other times as the Attorney General may approve reports on special aspects of criminal statistics (Pen. Code, § 13010, subs. (c) – (g)).

Since 1955, Penal Code section 13020 has imposed a duty on city marshals, chiefs of police, district attorneys, city attorneys, city prosecutors having criminal jurisdiction, probation officers and others, including "every other person or agency dealing with crimes or criminals or with delinquency or delinquents, when requested by the Attorney General" to collect and report statistical data.

Since 1955, cities and counties have had the obligation to provide DOJ with criminal statistics used in the UCR Program, as well as those needed for the annual report to the Governor and other reports on special aspects of criminal statistics.

Test Claim Statutes

Crime reporting: As enacted in 1955, Penal Code section 13020 imposes the following duty on local law enforcement "when requested by the Attorney General:"

> (a) To install and maintain records needed for the correct reporting of statistical data required by the bureau [FBI]; (b) To report statistical data to the bureau at such times and in such manner as the Attorney General prescribes; (c) To give to the Attorney General, or his accredited agent, access to the statistical data...

In 1972, subdivisions (a) and (b) were amended to make the Attorney General rather than the "bureau" the entity to whom local law enforcement reports.[1]

Reporting child pornography crimes: Section 13021 was added in 1967 (Stats. 1967, ch. 1157) as follows:

> Local law enforcement agencies shall report to the bureau such information as the Attorney General may by regulation require relative to misdemeanor violations of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 of this code.

Chapter 7.5 of Title 9 of Part 1 of the Penal Code is called "Obscene Matter" although the content of the statutes focus on child pornography.

Statutes 1972, chapter 1377, amended this statute to require the report to the Attorney General rather than the "bureau." This statute has not been amended since 1972.

Annual DOJ report to the Governor: Penal Code section 13012 requires DOJ's annual report to the Governor to contain specified data. It was amended in 1980 to require inclusion of "the number of citizens' complaints received by law enforcement agencies under Section 832.5..." (Stats. 1980, ch. 1340, eff. Sept. 30, 1980.)

Subdivision (c) of section 13012 was amended in 1995 to add the following underlined provision: "The administrative actions taken by law enforcement, judicial, penal, and correctional agencies or institutions, <u>including those in the juvenile justice system,</u> in dealing with criminals or delinquents." It was amended again by Statutes 2001, chapter 486 to add the following subdivision (e):

[1] Statutes 1972, chapter 1377, amended subdivisions (a) and (b) as follows: "(a) To install and maintain records needed for the correct reporting of statistical data required by him [the Attorney General]. (b) To report statistical data to the department at such times and in such manner as the Attorney General prescribes." No change was made to subdivision (c).

(e) The administrative actions taken by law enforcement, prosecutorial, judicial, penal, and correctional agencies, including those in the juvenile justice system, in dealing with minors who are the subject to a petition or hearing in the juvenile court to transfer their case to the jurisdiction of an adult criminal court or whose cases are directly filed or otherwise initiated in an adult criminal court.

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that section 13012 (Stats. 1980, ch. 1340, Stats. 1995, ch. 803 & Stats. 2001, ch. 486), by itself, does not impose a state-mandated activity on a local government because it only specifies the contents of a DOJ report, and imposes no requirements on a local agency.

Homicide reports: Penal Code section 13014 requires DOJ to collect information on all homicide victims and persons charged with homicides, to adopt and distribute homicide reporting forms and to compile the reported homicide information and annually publish a report about it. Subdivision (b) states: "Every state or local governmental entity responsible for the investigation and prosecution of a homicide case shall provide the department with demographic information about the victim and the person or persons charged with the crime." (Stats. 1992, ch. 1338.)

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that Penal Code section 13014 is a reimbursable mandate for a local government entity responsible for the investigation and prosecution of a homicide case to provide DOJ with demographic information about the victim and the person or persons charged with the crime, including the victim's and person's age, gender, race, and ethnic background.

The Legislature amended subdivision (a) of section 13014 in 2004 (Stats. 2004, ch. 405) to authorize DOJ to distribute reporting forms in writing or by electronic means.

Hate crime reports: Penal Code section 13023, as originally enacted in 1989, provided:

> Commencing July 1, 1990, subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability. (Stats. 1989, ch. 1172.)

Section 13023 also requires DOJ to file annual reports on the hate crime data. Statutes 1998, chapter 933 added the requirement to include 'gender' to the victim characteristics, and Statutes 2000, chapter 626 added 'national origin' to the victim characteristics.

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that Penal Code section 13023 is a reimbursable state-mandated program for local law enforcement agencies to report, in a manner to be prescribed by the Attorney General, any information that may be required relative to any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property

damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability, or gender or national origin.

The Legislature amended section 13023 in 2004 (Stats. 2004, ch. 700). This 2004 amendment, which was not pled or determined in test claims 02-TC-04 or 02-TC-11, slightly changed the definition of a hate crime and incorporated the definition by reference into section 13023, which affected the reporting requirement.

Concealed and loaded firearms reports: Penal Code section 12025 defines when a person is guilty of carrying a concealed firearm, defines the punishments for doing so, states a minimum sentence with exceptions, and defines lawful possession of the firearm. It was amended by Statutes 1999, chapter 571 to add a reporting provision in subdivision (h) as follows:

> (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.
> (2) The Attorney General shall submit annually a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).
> (3) This subdivision shall remain operative until January 1, 2005, and as of that date shall be repealed.

Similarly, section 12031 defines when a person is guilty of carrying a loaded firearm in a public place, and when a person is not guilty of doing so. It was amended by Statutes 1999, chapter 571 to add a reporting provision in subdivision (m) as follows:

> (1) The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.
> (2) The Attorney General shall submit annually, a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).
> (3) This subdivision shall remain operative only until January 1, 2005.

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that it is a reimbursable mandate for district attorneys to report annually on or before June 30, to the Attorney General, on profiles by race, age, gender, and ethnicity any person charged with a felony or misdemeanor under section 12025 (carrying a concealed firearm) or section 12031 of the Penal Code (carrying a loaded firearm in a public place), and any other offense charged in the same complaint, indictment, or information. This is a reimbursable mandate from July 1, 2001 until January 1, 2005, the statutory sunset date. (Pen. Code, §§ 12025 subd. (h)(1) & (h)(3) & 12031 subd. (m)(1) & (m)(3).)

Domestic violence reports: Penal Code section 13730 requires local law enforcement agencies to develop a system for recording all domestic violence-related calls for assistance. Enacted by Statutes 1984, chapter 1609, subdivision (a) requires each law enforcement agency to develop a system for recording all domestic violence-related calls for assistance, including whether weapons are involved. Subdivision (b) requires the Attorney General to report annually to the

Governor and Legislature on the total number of domestic violence-related calls received by California law enforcement agencies. Subdivision (c) requires law enforcement agencies to develop a domestic violence incident report form for the domestic violence calls, with specified content. It also requires written reports for domestic-violence related calls for assistance.

The Legislature amended subdivision (a) (Stats. 1993, ch. 1230) to state that "all domestic violence-related calls for assistance shall be supported with a written incident report, as described in subdivision (c), identifying the domestic violence incident."

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that it is a reimbursable state-mandated program for local law enforcement agencies to support all domestic-violence related calls for assistance with a written incident report, beginning July 1, 2001 (Pen. Code, § 13730, subd. (a), Stats. 1993, ch. 1230).

Reports for crime victims age 60 or older: Senate Resolution No. 64 (Stats. 1982, ch. 147) states in relevant part:

> Resolved by the Senate of the State of California, the Assembly thereof concurring,
> That local law enforcement officials are requested to make every attempt to modify their data gathering procedures and computer storage systems to provide information as to the number of victims of violent crimes who are 60 years of age or older; and be it further Resolved,
> That the Department of Justice is requested to solicit and collect information from local law enforcement agencies concerning the ages and victims of crime and to incorporate that information in its crime statistic reporting system...

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that Senate Resolution No. 64 (Stats. 1982, ch. 147) is not a state mandate within the meaning of article XIII B, section 6, of the California Constitution because it "requests" but does not mandate that the victim information be provided to DOJ, and because legislative resolutions do not have the force of law.

Criminal Justice Statistics Center Documents: Also included in the claim is the "Criminal Justice Reporting Requirements" (March 2000) and the "Criminal Statistics Reporting Requirements Spreadsheet" both promulgated by the Department of Justice, Criminal Justice Statistics Center. The introduction to the Reporting Requirements (former) document states:

> This document provides general guidelines to law enforcement agencies, District Attorneys, Public Defenders, and Probation Departments regarding their reporting requirements to the Department of Justice's Criminal Justice Statistics Center (CJSC). For each reporting requirement there is a brief description of what data is collected (introduction), which agencies are required to report the data (who), the code sections(s) that require reporting (why), the due date of the report (when), and the form or alternative method required to be used to report the data (how).

The Table of Contents of this document has sections on arrests, crimes and clearances, arson offenses, homicides, hate crimes, law enforcement officers killed or assaulted, domestic violence related calls for assistance, violent crimes committed against senior

citizens, death in custody, adult probation, juvenile court and probation statistical system, concealable weapons statistical system, hate crime prosecution survey, law enforcement and criminal justice personnel survey, and citizens' complaints against peace officers survey.

The spreadsheet has rows for each of the categories in the Table of Contents above, and columns indicating the reporting agency, reporting frequency, statutory authority, reporting form, and whether electronic reporting is available for each crime or category.

In its June 26, 2008 determination of 02-TC-04 and 02-TC-11, the *Crime Statistics Reports for the Department of Justice* test claim, the Commission found that these CJSC documents are not executive orders within the meaning of Government Code section 17516, and that they do not impose state-mandated activities on local agencies to report citizen complaints against peace officers and juvenile justice data to the DOJ.

Claimants' Position

Claimants City of Newport Beach and County of Sacramento filed this test claim to seek reimbursement based on article XIII B, section 6 of the California Constitution for criminal statistics reporting duties. The test claims do not contain specific activities beyond quoting the language of the test claim statutes. The claimants estimate that the costs of complying with the test claim statutes will substantially exceed $1000.00 per year.

State Agency Positions

The Department of Finance, in comments submitted August 15, 2008, asserts that the test claim should not be reimbursable. According to Finance:

> Sections 13020 and 13021 of the Penal Code were enacted in 1955 and 1967 respectively. Further, the amendments to Sections 13020 and 13021 (Chapters 233 and 860, Statutes of 1979 and Chapter 872, Statutes of 1996) made only technical and clarifying changes which do not mandate a new program or higher level of service within the meaning of Section 6 of Article XIII B ....

Finance also states that the additional statutes pled (beyond those in the original test claims 02-TC-04 and 02-TC-11) "make only technical and clarifying changes to the items already approved by the Commission" and concludes that the Commission should deny the test claim amendment.

The Department of Justice, in comments submitted September 5, 2008, declines to comment on whether the specified costs incurred represent state mandated reimbursable costs. DOJ did, however, point out the higher costs claimed by City of Newport Beach than by the County of Sacramento, even though the county has a higher population and more crimes.

Discussion

The courts have found that article XIII B, section 6 of the California Constitution[2] recognizes the state constitutional restrictions on the powers of local government to tax and spend.[3] "Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."[4] A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.[5]

In addition, the required activity or task must be new, constituting a "new program," or it must create a "higher level of service" over the previously required level of service.[6]

The courts have defined a "program" subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.[7] To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test claim

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[2] Article XIII B, section 6, subdivision (a), (as amended in Nov. 2004) provides:

> (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

[3] *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

[4] *County of San Diego v. State of California (County of San Diego)*(1997) 15 Cal.4th 68, 81.

[5] *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

[6] *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.*); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

[7] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar, supra,* 44 Cal.3d 830, 835.)

legislation.[8] A "higher level of service" occurs when the new "requirements were intended to provide an enhanced service to the public."[9]

Finally, the newly required activity or increased level of service must impose costs mandated by the state.[10]

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.[11] In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an "equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities."[12]

Because of the overlap in statutes, chapters and executive orders in this test claim and test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice,* the first issue is the Commission's jurisdiction.

I. Over which statutes or executive orders does the Commission have jurisdiction?

In this test claim, co-claimants pled the following statutes and chapters:

> Penal Code Sections 12025, 12031, 13012, 13014, 13020, 13021, 13023 and 13730; Statutes 1955, chapter 1128, Statutes 1965, chapter 238, Statutes 1965, chapter 1916, Statutes 1967, chapter 1157, Statutes 1971, chapter 1203, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1980, chapter 1340, Statutes 1982, Resolution Chapter 147 (SCR 64); Statutes 1984, chapter 1609, Statutes 1989, chapter 1172, Statutes 1992, chapter 1338, Statutes 1993, chapter 1230, Statutes 1995, chapters 803 and 965, Statutes 1996, chapter 872, Statutes 1998, chapter 933, Statutes 1999, chapter 571, Statutes 2000, chapter 626, Statutes 2001, chapters 468 and 483, Statutes 2004, chapters 405, 700, Statutes 1982, Resolution Chapter 147 (SCR 64), and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements and Requirements Spreadsheet, March 2000.

Statutes 1971, chapter 1203 amended only section 13010, which recites the duties of the Bureau of Criminal Statistics at DOJ. Penal Code section 13010, however, was not pled in this claim.

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[8] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 878; *Lucia Mar, supra*, 44 Cal.3d 830, 835.

[9] *San Diego Unified School Dist., supra,* 33 Cal.4th 859, 878.

[10] *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

[11] *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

[12] *County of Sonoma, supra,* 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

Therefore, staff finds that the Commission does not have jurisdiction over Statutes 1971, chapter 1203.

As to the remaining statutes, an administrative agency does not have jurisdiction to rehear a decision that has become final.[13] On June 26, 2008, the Commission made a determination on the following statutes and chapters in test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice*, which became final upon mailing to the parties:[14]

> Penal Code Sections 12025, 12031, 13012, 13014, 13023 and 13730; Statutes 1980, chapter 1340, Statutes 1982, Resolution Chapter 147 (SCR 64); Statutes 1984, chapter 1609, Statutes 1989, chapter 1172, Statutes 1992, chapter 1338, Statutes 1993, chapter 1230, Statutes 1995, chapters 803 and 965, Statutes 1998, chapter 933, Statutes 1999, chapter 571, Statutes 2000, chapter 626, Statutes 2001, chapters 468 and 483, and California Department of Justice, Criminal Justice Statistics Center, Criminal Statistics Reporting Requirements and Requirements Spreadsheet, March 2000.

Because of the substantial overlap between what was claimed and what the Commission decided at the June 26, 2008 hearing, the Commission has jurisdiction over only the following statutes on which no determination was made in the Statement of Decision for the prior test claims (02-TC-04 & 02-TC-11):

> Penal Code sections 13020 and 13021; Statutes 1955, chapter 1128, Statutes 1965, chapter 238, Statutes 1965, chapter 1916, Statutes 1967, chapter 1157, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1996, chapter 872, Statutes 2004, chapter 405 (amending § 13014), Statutes 2004, chapter 700 (amending § 13023).

These statutes are discussed below.

II. Is reimbursement required for Penal Code sections 13020 and 13021 if the required activities were enacted before 1975?

Article XIII B, section 6 of the California Constitution does not require reimbursement for statutes or executive orders that were enacted before 1975. Therefore, if the law imposed a requirement on local government before 1975, the Legislature may, but need not, reimburse local agencies for those activities.

Penal Code section 13020 imposes the following duty on local law enforcement "when requested by the Attorney General:"

> (a) To install and maintain records needed for the correct reporting of statistical data required by him or her; (b) To report statistical data to the department [of

[13] *Heap v. City of Los Angeles* (1936) 6 Cal.2d 405, 407. *Save Oxnard Shores v. California Coastal Commission* (1986) 179 Cal.App.3d 140, 143.

[14] California Code of Regulations, title 2, section 1188.2. The only exception would be for a reconsideration within 30 days of the decision (see Gov. Code, § 17559 & Cal. Code Regs., tit. 2, § 1188.4), but no reconsideration request was filed.

> Justice] at such times and in such manner as the Attorney General prescribes;
> (c) To give to the Attorney General, or his accredited agent, access to the statistical data for the purpose of carrying out this title.

Staff finds that this same activity was required before 1975. Statutes 1973, chapter 1212 enacted this same requirement "when requested by the Attorney General":

> (a) To install and maintain records needed for the correct reporting of statistical data required by the him; (b) To report statistical data to the Department of Justice at such times and in such manner as the Attorney General prescribes; (c) To give to the Attorney General, or his accredited agent, access to the statistical data for the purpose of carrying out the purposes of this title.

Because local law enforcement was subject to the same reporting requirement before 1975, and based on the absence of any right to reimbursement in article XIII B, section 6, for statutes enacted before 1975, staff finds that there is no state reimbursement required for this reporting in Penal Code section 13020 (Stats. 1955, ch. 1128, Stats. 1965, ch. 238, Statutes 1965, chapter 1916, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1996, chapter 872).

Section 13021 of the Penal Code also requires local law enforcement reporting:

> Local law enforcement agencies shall report to the Department of Justice such information as the Attorney General may by regulation require relative to misdemeanor violations of Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1 of this code [child pornography].

Section 13021 has not been amended since 1972 (Stats. 1972, ch. 1377). Therefore, for the same reason as section 13020 above, staff finds that state reimbursement is not required for the activities in Penal Code section 13021 (Stats. 1967, ch. 1157, Stats. 1972, ch. 1377).

Sections 13023 (Stats. 2004, ch. 700, hate crime reports) and 13014 (Stats. 2004, ch. 405, homicide reports) are discussed below.

III. Do Penal Code sections 13014 (Stats. 2004, ch. 405) and 13023 (Stats. 2004, ch. 700) mandate a new program or higher level of service?

As stated above, the Commission determined that section 13014, as added in Statutes 1992, chapter 1338, is a reimbursable mandate. This section was amended in 2004 as follows:

> (a) The Department of Justice shall perform the following duties concerning the investigation and prosecution of homicide cases: (1) Collection information, as specified, in subdivision (b), on all persons who are the victims of, and all persons who are charged with, homicide. (2) Adopt and distribute as a written form or by electronic means to all state and governmental entities that are responsible for the investigation and prosecution of homicide cases forms that will include information to be provided to the department pursuant to subdivision (b).

No other changes were made by Statues 2004, chapter 405. The local government reporting requirement is in subdivision (b). This amendment is not a mandated activity on a local agency. It authorizes the DOJ to distribute forms in writing or electronically, but does not require an

activity of a local agency. Therefore, staff finds that section 13014, as amended by Statutes 2004, chapter 700, is not a state-mandated new program or higher level of service.

Although the Commission determined that section 13023, as amended by Statutes 2000, chapter 626, is a reimbursable mandate, the section was amended in 2004 as follows:

> (a) Subject to the availability of adequate funding, the Attorney General shall direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information that may be required relative to ~~any criminal acts or attempted criminal acts to cause physical injury, emotional suffering, or property damage where there is a reasonable cause to believe that the crime was motivated, in whole or in part, by the victim's race, ethnicity, religion, sexual orientation, or physical or mental disability, or gender or national origin~~ hate crimes. This information may include any general orders or formal policies on hate crimes and the hate crime pamphlet required pursuant to Section 422.92.
>
> (b) On or before July 1~~, 1992, and every July 1, thereafter,~~ of each year, the Department of Justice shall submit a report to the Legislature analyzing the results of the information obtained from local law enforcement agencies pursuant to this section.
>
> (c) For purposes of this section, "hate crime" has the same meaning as in Section 422.55.

Section 422.55 of the Penal Code, now incorporated into section 13023, was also added by Statutes 2004, chapter 700, as follows:

> For purposes of this title, and for purposes of all other state law unless an explicit provision of law or the context clearly requires a different meaning, the following shall apply:
>
> (a) "Hate crime" means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim:
>
> (1) Disability.
>
> (2) Gender.
>
> (3) Nationality.
>
> (4) Race or ethnicity.
>
> (5) Religion.
>
> (6) Sexual orientation.
>
> (7) Association with a person or group with one or more of these actual or perceived characteristics.
>
> (b) "Hate crime" includes, but is not limited to, a violation of Section 422.6.

This amendment, incorporating the new definition of hate crime in section 422.55, expands the definition somewhat. For example, instead of the crime being motivated by the victim's characteristics, the new definition allows for actual or "perceived characteristics" of the victim. The amendment also adds a victim characteristic: "Association with a person or group with one or more of these actual or perceived characteristics."

As determined in the Statement of Decision for *Crime Statistics Reports for the Department of Justice* (02-TC-04 and 02-TC-11) the plain language of this statute requires the Attorney General

to "direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information ..." Therefore, staff finds that section 13023 (Stats. 2004, ch. 700) imposes a state-mandated new program or higher level of service on local law enforcement agencies beginning January 1, 2004, to report the following in a manner to be prescribed by the Attorney General:

- Any information that may be required relative to hate crimes, as defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of one or more of the following *perceived* characteristics of the victim: (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.
- Any information that may be required relative to hate crimes, defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of *association with a person or group with one or more of the following actual or perceived characteristics:* (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.

Staff also finds that section 13023 constitutes a program within the meaning of article XIII B, section 6 because it carries out the governmental function of providing a service to the public[15] by collecting hate crime information for DOJ to report criminal statistics, and because reporting the data is an activity that is unique to local government.

Subdivision (a) of section 13023, as amended by Statutes 2004, chapter 700, also states that the reported "information may include any general orders or formal policies on hate crimes and the hate crime pamphlet required pursuant to Section 422.92."[16] There is no evidence or pleading in the record, however, indicating that DOJ has required this information from local law enforcement, such as a letter to law enforcement agencies from DOJ requiring this information to be reported. Since the statute merely authorizes DOJ to request the information but does not require an activity of a local agency, staff finds that this amendment to subdivision (a) is not a state-mandated new program or higher level of service.

IV. Does Penal Code section 13023 (Stats. 2004, ch. 700) impose costs mandated by the state within the meaning of Government Code sections 17514 and 17556?

The final issue is whether Penal Code section 13023 (Stats. 2004, ch. 700) imposes costs mandated by the state,[17] and whether any statutory exceptions listed in Government Code

[15] *County of Los Angeles, supra,* 43 Cal.3d 46, 56.

[16] Penal Code section 422.92 states: (a) Every state and local law enforcement agency in this state shall make available a brochure on hate crimes to victims of these crimes and the public. (b) The Department of Fair Employment and Housing shall provide existing brochures, making revisions as needed, to local law enforcement agencies upon request for reproduction and distribution to victims of hate crimes and other interested parties. In carrying out these responsibilities, the department shall consult the Fair Employment and Housing Commission, the Department of Justice, and the Victim Compensation and Government Claims Board.

[17] *Lucia Mar, supra,* 44 Cal.3d 830, 835; Government Code section 17514.

section 17556 apply to the test claim. Government Code section 17514 defines "cost mandated by the state" as follows:

> [A]ny increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

Government Code section 17564 requires reimbursement claims to exceed $1000 to be eligible for reimbursement.

The co-claimants submitted declarations in support of their test claim. The City of Newport Beach (p. 11) estimated the cost of filing to comply with Penal Code section 13023 at $10,570 per month. The County of Sacramento (p. 10) estimated the cost of filing to comply with this statute at $244 per year. Therefore, co-claimants have met the $1000 threshold in Government Code section 17564.

The plain language of Penal Code section 13023 requires the Attorney General to "direct local law enforcement agencies to report to the Department of Justice, in a manner to be prescribed by the Attorney General, any information ..."

However, the requirement is contingent on funding, as it reads "subject to the availability of adequate funding, the Attorney General shall direct..." The funding in the statute is allocated to the Attorney General, not local entities. In its comments on test claims 02-TC-04 and 02-TC-11, the Attorney General's Office stated that "[a]lthough the hate crime legislation passed in 1989, because of a lack of funding, the DOJ did not begin collecting data until 1994." (Statement of Decision, 02-TC-04 & 02-TC-11, *Crime Statistics Reports for the Department of Justice*, p. 15.) This indicates that the funding was allocated to the Attorney General's office to collect the data, not on the local agencies to report it.

And staff finds no exceptions to reimbursement in Government Code section 17556 apply to this test claim.

Therefore, staff finds that Penal Code section 13023 (Stats. 2004, ch. 700) imposes costs mandated by the state on local law enforcement agencies within the meaning of Government Code section 17514.

CONCLUSION

Based on the foregoing analysis, staff finds that Penal Code section 13023 (Stats. 2004, ch. 700) imposes a reimbursable state-mandated program, within the meaning of article XIII B, section 6 of the California Constitution for the following activities, on local law enforcement agencies beginning January 1, 2004, to report the following in a manner to be prescribed by the Attorney General:

- Any information that may be required relative to hate crimes, as defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of one or more of the following *perceived* characteristics of the victim: (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.

- Any information that may be required relative to hate crimes, defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of *association with a person or group with one or more of the following actual or perceived characteristics:* (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation.

Staff further finds that Penal Code sections 13020 and 13021 (Statutes 1955, chapter 1128, Statutes 1965, chapter 238, Statutes 1965, chapter 1916, Statutes 1967, chapter 1157, Statutes 1972, chapter 1377, Statutes 1973, chapter 142, Statutes 1973, chapter 1212, Statutes 1979, chapter 255, Statutes 1979, chapter 860, Statutes 1996, chapter 872) are not reimbursable state mandates within the meaning of article XIII B, section 6 of the California constitution because they existed before 1975, and impose no new activities on local agencies.

As to Statutes 1971, chapter 1203, staff finds that, because it amended only Penal Code section 13010, which is not part of this test claim, the Commission does not have jurisdiction over it.

Staff finds that Statutes 2004, chapters 405 (amending Pen. Code, § 13014, homicide reports) is not a state mandate because it does not require a local agency activity.

Staff also finds that the Commission does not have jurisdiction over the remaining statutes, chapters and executive orders in this claim because the Commission already made a determination on them in test claims 02-TC-04 and 02-TC-11, *Crime Statistics Reports for the Department of Justice.*

Recommendation

Staff recommends that the Commission adopt this analysis to partially approve the test claim for the activities in Penal Code section 13023 (Stats. 2004, ch. 700) listed above.

Original List Date:

Last Updated:

List Print Date: 05/07/2009

Claim Number: 07-TC-10 (02-TC-04 & 11)

Issue: Crime Statistics Reports for the Department fo Justice - Amended

Mailing Information: Draft Staff Analysis

Mailing List

Related Matter(s)

02-TC-04	Crime Statistic Reports for the Department of Justice
02-TC-11	Crime Statistic Reports for the Department of Justice

TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

Ms. Nancy Gust
County of Sacramento
711 G Street
Sacramento, CA 95814

Claimant
Tel: (916) 874-6032
Fax: (916) 874-5263

Mr. Glen Everroad
City of Newport Beach
3300 Newport Blvd.
P. O. Box 1768
Newport Beach, CA 92659-1768

Claimant
Tel: (949) 644-3127
Fax: (949) 644-3339

Mr. Allan Burdick
MAXIMUS
3130 Kilgore Road, Suite 400
Rancho Cordova, CA 95670

Claimant Representative
Tel: (916) 471-5538
Fax: (916) 366-4838

Ms. Marilyn Yankee
Department of Justice BCIA (D-08)
P.O. Box 903427
Sacramento, CA 94203-4270

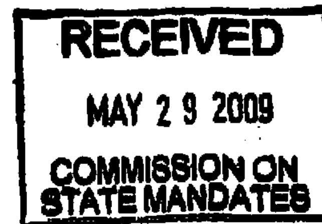
Tel: (916) 227-4777
Fax: (916) 000-0000

Mr. David Wellhouse
David Wellhouse & Associates, Inc.
9175 Kiefer Blvd, Suite 121
Sacramento, CA 95826

Tel: (916) 368-9244
Fax: (916) 368-5723

Contact		
Ms. Althea Rivers County of Sacramento 711 G. Street, Room 405 Sacramento, CA 95814	Tel: Fax:	(916)874-6032
Ms. Jill Kanemasu State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 500 Sacramento, CA 95816	Tel: Fax:	(916)445-8757
Mr. Leonard Kaye County of Los Angeles Auditor-Controller's Office 500 W. Temple Street, Room 603 Los Angeles, CA 90012	Tel: Fax:	(213) 974-9791 (213) 617-8106
Ms. Annette Chinn Cost Recovery Systems, Inc. 705-2 East Bidwell Street, #294 Folsom, CA 95630	Tel: Fax:	(916) 939-7901 (916) 939-7801
Ms. Susan Geanacou Department of Finance (A-15) 915 L Street, Suite 1280 Sacramento, CA 95814	Tel: Fax:	(916) 445-3274 (916) 449-5252
Ms. Juliana F. Gmur MAXIMUS 2380 Houston Ave Clovis, CA 93611	Tel: Fax:	(916) 485-8102 (916) 485-0111
Mr. Mark Sigman Riverside County Sheriff's Office 4095 Lemon Street P.O. Box 512 Riverside, CA 92502	Tel: Fax:	(951) 955-2700
Mr. Jim Spano State Controller's Office (B-08) Division of Audits 300 Capitol Mall, Suite 518 Sacramento, CA 95814	Tel: Fax:	(916) 323-5849 (916) 327-0832
Mr. Keith B. Petersen SixTen & Associates 3841 North Freeway Blvd., Suite 170 Sacramento, CA 95834	Tel: Fax:	(916) 565-6104 (916) 564-6103

Contact		
Executive Director California Peace Officers' Association 1455 Response Road, Suite 190 Sacramento, CA 95815	Tel: Fax:	(916) 263-0541 (916) 263-6090
Mr. Steve Shields Shields Consulting Group, Inc. 1536 36th Street Sacramento, CA 95816	Tel: Fax:	(916) 454-7310 (916) 454-7312
Ms. Bonnie Ter Keurst County of San Bernardino Office of the Auditor/Controller-Recorder 222 West Hospitality Lane San Bernardino, CA 92415-0018	Tel: Fax:	(909) 386-8850 (909) 386-8830
Mr. J. Bradley Burgess Public Resource Management Group 895 La Sierra Drive Sacramento, CA 95864	Tel: Fax:	(916)595-2646
Ms. Carla Castaneda Department of Finance (A-15) 915 L Street, 12th Floor Sacramento, CA 95814	Tel: Fax:	(916) 445-3274 (916) 323-9584
Ms. Beth Hunter Centration, Inc. 8570 Utica Avenue, Suite 100 Rancho Cucamonga, CA 91730	Tel: Fax:	(866) 481-2621 (866) 481-2682
Ms. Ginny Brummels State Controller's Office (B-08) Division of Accounting & Reporting 3301 C Street, Suite 500 Sacramento, CA 95816	Tel: Fax:	(916) 324-0256 (916) 323-6527
Ms. Jean Kinney Hurst California State Association of Counties 1100 K Street, Suite 101 Sacramento, CA 95814-3941	Tel: Fax:	(916) 327-7500 (916) 441-5507
Mr. Dale Mangram Riverside County Auditor Controller's Office 4080 Lemon Street, 11th Floor Riverside, CA 92502	Tel: Fax:	(951) 955-3883 (951) 955-8133



RESPONSE TO DRAFT STAFF ANALYSIS

On Original Test Claim

Chapter 1128, Statutes of 1955; Chapter 238, Statutes of 1965; Chapter 1965, Statutes of 1965; Chapter 1157, Statutes of 1967; Chapter 1201, Statutes of 1971; Chapter 1377, Statutes of 1972; Chapter 225, Statutes of 1979; Chapter 860, Statutes of 1979; Chapter 1340, Statutes of 1980; Chapter 1609, Statutes of 1984; Chapter 1172, Statutes of 1989; Chapter 1338, Statutes of 1992; Chapter 1230, Statutes of 1993; Chapter 803, Statutes of 1995; Chapter 965, Statutes of 1995; Chapter 872, Statutes of 1996 (AB 3472); Chapter 933, Statutes of 1998; Chapter 571, Statutes of 1999; Chapter 626, Statutes of 2000; Chapter 483, Statutes of 2001; Chapter 468, Statutes of 2001; Chapter 405, Statutes of 2004 (SB 1796); Chapter 700, Statutes of 2004 (SB 1234); and Senate Resolution 64, Chapter 147, 1982

Penal Code sections 12025, 12031, 13012, 13014, 13021, 13023, and 13730

CSM 07-TC-10 (02-TC-04 and 02-TC-11)

Crime Statistic Reports for the Department of Justice

City of Newport Beach and County of Sacramento, Claimants

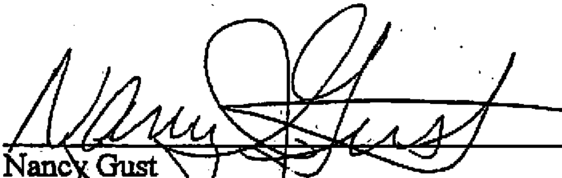
Test Claimants, City of Newport Beach and County of Sacramento, submit the following in response to the Draft Staff Analysis issued by Commission staff on May 7, 2009. The Test Claimants support the Draft Staff Analysis.

CERTIFICATION

I declare under penalty of perjury under the laws of the State of California that the statements made in this document are true and correct, except as to those matters stated upon information and belief and as to those matters, I believe them to be true.

Executed this 6th day of May 28, 2009, at Sacramento, California, by:

Glen Everroad
Revenue Manager
City of Newport Beach



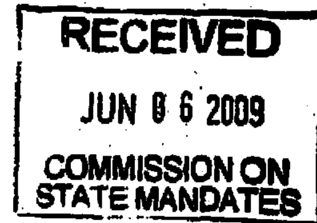
Nancy Gust
Sheriff's Department
County of Sacramento

Exhibit G

DEPARTMENT OF FINANCE
OFFICE OF THE DIRECTOR

ARNOLD SCHWARZENEGGER, GOVERNOR

STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV



June 3, 2009

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Higashi:

As requested in your letter of May 7, 2009, the Department of Finance (Finance) has reviewed the Commission's draft staff analysis of the test claim for Claim No. 07-TC-10 (02-TC-04 and 02-TC-11), "Crime Statistics Reports for the Department of Justice-Amended."

As the result of our review, Finance concurs with the staff analysis to partially approve the test claim for the following activities in Section 13023 of the Penal Code (PC):

- "Any information that may be required relative to hate crimes, as defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of one or more of the following *perceived* characteristics of the victim: (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation."

- "Any information that may be required relative to hate crimes, defined in Penal Code section 422.55 as criminal acts committed, in whole or in part, because of *association with a person or group with one or more of the following actual or perceived characteristics:* (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation."

If the Commission adopts the staff's recommendation to partially adopt this test claim, Finance would recommend this mandate be consolidated with Claim No. 02-TC-04 and 02-TC-11 for the purpose of developing parameters and guidelines.

As required by the Commission's regulations, a "Proof of Service" has been enclosed indicating that the parties included on the mailing list which accompanied your May 7, 2009 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

Attachment A

DECLARATION OF CARLA CASTAÑEDA
DEPARTMENT OF FINANCE
CLAIM NO. CSM-07-TC-10

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

June 3, 2009
at Sacramento, CA

Carla Castañeda
Carla Castañeda

PROOF OF SERVICE

Test Claim Name: Crime Statistics Reports for the Department of Justice - Amended
Test Claim Number: CSM-07-TC-10

I, the undersigned, declare as follows:
I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 12th Floor, Sacramento, CA 95814.

On June 3, 2009, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, Floor, for Interagency Mail Service, addressed as follows:

A-16
Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
Facsimile No. 445-0278

Mr. Glen Everroad
City of Newport Beach
3300 Newport Boulevard
P.O. Box 1768
Newport Beach, CA 92659-1768

D-08
Ms. Marilyn Yankee
Department of Justice BCIA
P.O. Box 903427
Sacramento, CA 94203-4270

Ms. Althea Rivers
County of Sacramento
711 G Street, Room 405
Sacramento, CA 95814

Mr. Leonard Kaye
County of Los Angeles
Auditor – Controller's Office
500 W. Temple Street, Room 603
Los Angeles, CA 90012

Ms. Nancy Gust
County of Sacramento
711 G Street
Sacramento, CA 95814

Mr. Allan Burdick
MAXIMUS
3130 Kilgore Road, Suite 400
Rancho Cordova, CA 95670

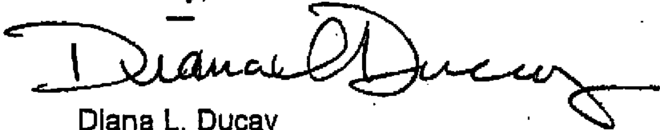
Mr. David Wellhouse
Wellhouse and Associates
9175 Kiefer Boulevard, Suite 121
Sacramento, CA 95826

B-08
Ms. Jill Kanemasu
State Controller's Office
Division of Accounting & Reporting
3301 C Street, Suite 500
Sacramento, CA 95816

Ms. Annette Chinn
Cost Recovery Systems, Inc.
705-2 East Bidwell Street, #294
Folsom, CA 95630

If you have any questions regarding this letter, please contact Carla Castañeda, Principal Program Budget Analyst at (916) 445-3274.

Sincerely,



Diana L. Ducay
Program Budget Manager

Enclosure