07-0094

Amdt. #1S

RECEIVED
DEC 17 2007
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

December 17, 2007

Ms. Krystal Paris, Initiative Coordinator

Office of the Attorney General

1300 I Street

Sacramento, CA 95814

Dear Ms. Paris:

As the proponents of the Safe Neighborhoods Act, we are submitting substantive amendments within the 15 days allowed by law as you continue to prepare a Title and Summary for the Safe Neighborhoods Act, which we are submitting as an initiative measure to the people of the State of California.

Sincerely,

Safe Neighborhoods Act proponents

12/17/2007

07-0094
Amdt. #1S

SECTION 1. TITLE

This act shall be known, and may be cited as, the "Safe Neighborhoods Act: Stop Gang, Gun, and Street Crime."

SEC. 2. FINDINGS AND DECLARATIONS

(a) The People of the State of California find and declare that state government has no higher purpose or more challenging mandate than the protection of our families and our neighborhoods from crime.

(b) Almost every citizen has been, or knows someone who has been, victimized by crime.

(c) Although crime rates have fallen substantially since the early 1990s, there have been some disturbing increases in the last few years in several categories of crime. According to the Federal Bureau of Investigation, there were 477 more homicides in California in 2006 than there were in 1999, a period during which homicides and homicide rates declined in many other states. In addition, the California Department of Justice has reported that there were 74,000 more vehicle thefts in 2006 than in 1999 and that the number of robberies in our state jumped by over 7,500 between 2005 and 2006. More needs to be done to reduce crime and keep our communities safe.

(d) Gangs are a large part of the reason why California has not fared as well as many other states in recent years in terms of decreasing crime rates. Street gangs are largely responsible for increases in California homicides in recent years. Many gangs involve juveniles.

(e) Previously convicted felons and gang members commit the vast majority of gun crimes, including the killing of peace officers. Gangs have compromised our criminal justice system, routinely threatening and assaulting victims, witnesses, and even judges. It is essential that state laws and resources target these types of offenders.

(f) The proliferation of methamphetamine has created a multitude of crime problems, driving recent increases in vehicle and identity theft. Now the illegal drug of choice, methamphetamine is often sold by street gangs and, unlike many other drugs, is produced here in California. The effects of the drug are devastating on users and communities where its use is widespread.

(g) Our state adds several hundred thousand people to its population each year and must commit resources necessary to support increasing demands on criminal justice personnel and infrastructure. California's law enforcement personnel, programs, technology, and infrastructure have not kept pace. In fact, the resources available to California law enforcement agencies are generally not as great as those found in communities in other states. According to the U.S. Department of Justice, in 2004, thirty-five states had more sworn officers per 100,000 residents than California.

(h) Unfortunately, our Legislature has failed to address these problems in a comprehensive way. Programs to prevent crime and rehabilitate offenders are inadequate and unaccountable to the public. Penalties for certain crimes are not severe enough to deter. Enforcement efforts and deterrence programs that do work are often so erratically funded they cannot be sustained. Victims of crime are not afforded adequate information, protection, and support in the criminal justice system. In 2007, the State Senate abdicated its responsibility altogether, refusing to pass legislation that enhances criminal penalties.

(i) These conditions are unacceptable. Californians have used their constitutionally reserved power of initiative to enact comprehensive criminal justice reform in the past and it is time for us to do so again. Early intervention reduces crime and gang activity. Tougher criminal penalties reduce the number of crime victims.

SEC. 3. STATEMENT OF PURPOSE

In order to make our neighborhoods safe and reduce the number of crime victims, the People of the State of California hereby enact a comprehensive reform of our criminal justice laws in order to:

(a) Improve programs to prevent crimes;

(b) Enhance public involvement and public accountability;

(c) Increase punishment to incapacitate criminals and deter crime;

(d) Protect victims of crimes from abuse and ensure that they are treated with dignity at all stages of the criminal justice process; and

(e) Provide supplemental and sustainable funding for law enforcement, crime prevention, and victim programs.

SEC. 4. INTERVENTION

Section 14260 is added to Part 4 of the Penal Code, to read:

14260. (a) There is hereby established the Office of Public Safety Education and Information.

(b) The primary objectives of the office are to deter crime, support crime victims, encourage public cooperation with law enforcement, and administer grant programs that pursue these goals. These objectives shall be met in part through public service announcements disseminated by the most efficient means including television, radio, the Internet, and through the office's own website.

(c) Public disclosures shall include, but not be limited to, information regarding the following themes and state laws: "Use a Gun and You're Done," "Three Strikes," and "Jessica's Law." In addition, disclosures will incorporate comparative crime rates by specific offense, including homicide, rape, robbery, burglary, and vehicle theft; incarceration rates; and prison demographics that explain by offense the makeup of inmate population. Comparative information regarding crime and criminal justice resources may include year-to-year as well as state-to-state comparisons. Public disclosures shall also include the relative efficacy of programs to deter, educate, and rehabilitate, including but not limited to the disclosure of recidivism rates and subsequent arrests and convictions.

(d) The office shall maintain a publicly-accessible website that shall include at least three discrete features:

(1) A public safety information page that shall include general information regarding the criminal justice system, current crime activity, safety advice, statistics, changes in the law, and links to related websites including the California Department of Justice and the Federal Bureau of Investigation.

(2) A statewide neighborhood watch page, known as "Cal Watch," providing informational support for and linking with local neighborhood watch programs and assisting communities, sheriffs, and police departments wishing to create new neighborhood watch programs.

(3) A crime victim information and support page shall link state and local programs which assist victims through the criminal justice process and provide services and reimbursement including medical expenses, rape counseling, lost wages, and victim-paid rewards.

(e) The sum of twelve million, five hundred thousand dollars ($12,500,000) is hereby appropriated from the General Fund to the Office of Public Safety Education and Information for the 2009-2010 fiscal year and annually thereafter, adjusted for cost of living changes pursuant to the California Consumer Price Index, for the purpose of augmenting resources of district attorneys and law enforcement agencies employed to assist victims or comply with victim notification requirements under the California Constitution or consistent statutory measures.

(1) Twenty percent of the amount annually appropriated shall be distributed on a pro rata basis to participating county sheriffs' departments which maintain the Victim Information and Notification Everyday (VINE) program.

(2) Eighty percent of the amount annually appropriated shall support grant programs awarded to county district attorneys, sheriffs, and police departments in order to disseminate victim rights information and to assist victims of crime in gaining access to protective services, counseling, and loss reimbursement. Specific program and grant application requirements shall be promulgated by the office no later than March 30, 2009, and may be amended periodically. Applicant agencies may apply no later than June 15th preceding the fiscal year during which grant funds are sought.

(f) The Governor shall appoint an executive officer and staff, as reasonably necessary to implement the work of the office.

(g) The office shall work with state, local, and federal agencies to maximize public safety resources,

secure matching funds, eliminate duplicative efforts, and help craft better public safety policies and practices.

Section 13921 is added to the Government Code, to read:

13921. (a) There is hereby established the California Early Intervention, Rehabilitation, and Accountability Commission for the purpose of evaluating publicly-funded programs designed to deter crime through early intervention, or reduce recidivism through rehabilitation, and to disclose those findings to the public. The commission shall adhere to the principle that limited public resources are best directed to programs that help limit incarceration through deterrence and focused rehabilitation rather than early release without meaningful accountability.

(b) The commission's long-term goal is to help identify and productively intervene with at-risk populations prior to incarceration, and for those subject to incarceration, to identify programs and offenders with the greatest rehabilitative potential, so the most successful programs can be replicated.

(c) The commission is authorized to propose standards of accountability for publicly-funded program providers and participants, make recommendations to continue, supplement, or decrease funding and highlight favorable or unfavorable elements of the programs reviewed.

(d) The commission shall report annually to the Joint Legislative Audit Committee and the Governor regarding the expenditures and efficacy of publicly-funded programs.

(e) All publicly-funded early intervention programs shall have a clearly defined at-risk target population and identify participants so that participants' subsequent criminal involvement, if any, can be compared to similarly situated control groups.

(f) All publicly-funded rehabilitation programs involving criminal offenders, including juveniles, shall be designed to help create a plan for the offenders' successful integration or reintegration into the community. Accordingly, all such programs shall have clearly defined goals and require the offender to develop skills to find employment, locate housing, overcome addiction, and/or develop a plan with the potential for successful reintegration.

(g) All recipient programs, including those directed toward early intervention and education, shall file an annual statement with the commission detailing staffing, curriculum, and program participation. Copies of annual statements to other granting authorities will be sufficient unless the commission requires additional information.

(h) The commission shall be comprised of nine members, consisting of three appointees of the Governor, including the chair; two members of the Senate, one appointed by the Rules Committee and one by the Minority Leader; two members of the State Assembly, one appointed by the Speaker and one by the Minority Leader; a retired judge appointed by the Chief Justice of the California Supreme Court; and the Attorney General or his or her designee. The members of the commission shall not receive compensation, but shall be reimbursed only for reasonable commission-related expenses.

(i) The Governor shall appoint an executive officer, who shall hire necessary staff to conduct research and administer to the commission, including staff to conduct periodic or random audits of all publicly funded programs, subject to budgetary limitations of the commission.

(j) Every early intervention or rehabilitation program funded, in whole or in part with public funds, shall make its physical facilities and financial records available to the commission as a condition of public funding.

(k) The commission may evaluate any early intervention, education, or rehabilitation program, juvenile or adult, public or private, for the purposes of comparative study.

Section 749.22 of the Welfare and Institutions Code is amended to read:

749.22. To be eligible for this grant, each county shall be required to establish a multiagency juvenile justice coordinating council that shall develop and implement a continuum of county-based responses to juvenile crime. The coordinating councils shall~~, at a minimum,~~ include the chief probation officer, as chair, and one representative each from the district attorney's office, the public defender's office, the sheriff's department, the board of supervisors, the department of social services, the department of mental health~~, a community based drug and alcohol program~~, a city police department, the county office of education or a school district~~, and an at large community representative. In order to carry out its duties pursuant to this~~

~~section, a coordinating council shall also include representatives from nonprofit community-based organizations providing services to minors. The board of supervisors shall be informed of community-based organizations participating on a coordinating council.~~ The coordinating councils shall develop a comprehensive, multiagency plan that identifies the resources and strategies for providing an effective continuum of responses for the prevention, intervention, supervision, treatment, and incarceration of male and female juvenile offenders, including strategies to develop and implement locally based or regionally based out-of-home placement options for youths who are persons described in Section 602. ~~Counties may utilize community punishment plans developed pursuant to grants awarded from funds included in the 1995 Budget Act to the extent the plans address juvenile crime and the juvenile justice system or local action plans previously developed for this program.~~ The plan shall include, but not be limited to, the following components:

(a) An assessment of existing law enforcement, probation, education, mental health, health, social services, drug and alcohol and youth services resources which specifically target at-risk juveniles, juvenile offenders, and their families.

(b) An identification and prioritization of the neighborhoods, schools, and other areas in the community that face a significant public safety risk from juvenile crime, such as gang activity, ~~daylight~~ burglary, ~~late-night~~ robbery, vandalism, truancy, controlled substance sales, firearm-related violence, and juvenile alcohol *and* drug use within the council's jurisdiction.

(c) A local action plan (LAP) for improving and marshaling the resources set forth in subdivision (a) to reduce the incidence of juvenile crime and delinquency in the areas targeted pursuant to subdivision (b) and the greater community. The councils shall prepare their plans to maximize the provision of collaborative and integrated services of all the resources set forth in subdivision (a), and shall provide specified strategies for all elements of response, including prevention, intervention, suppression, and incapacitation, to provide a continuum for addressing the identified male and female juvenile crime problem, and strategies to develop and implement locally based or regionally based out-of-home placement options for youths who are persons described in Section 602.

(d) Develop information and intelligence-sharing systems to ensure that county actions are fully coordinated, and to provide data for measuring the success of the grantee in achieving its goals. The plan shall develop goals related to the outcome measures that shall be used to determine the effectiveness of the program.

(e) Identify outcome measures which shall include, but not be limited to, the following:

(1) The rate of juvenile arrests *in relation to the crime rate.*

(2) The rate of successful completion of probation.

(3) The rate of successful completion of restitution and court-ordered community service responsibilities.

(f) No person employed by or representing the interest of any private entity including a charitable non-profit organization which has received or may receive grant funding for providing services for juvenile or adult offenders or at-risk populations may serve on a coordinating council.

Section 1951 of the Welfare and Institutions Code is amended to read:

1951. (a) There is hereby established the Youthful Offender Block Grant Fund.

(b) Allocations from the Youthful Offender Block Grant Fund shall be used to enhance the capacity of county probation~~, mental health, drug and alcohol, and other county departments~~ to provide *or secure* appropriate rehabilitative and supervision services to youthful offenders subject to Sections 731.1, 733, 1766, 1767.35. ~~Counties, in expanding the Youthful Offender Block Grant allocation, shall provide all necessary services related to the custody and parole of the offenders.~~

(c) The county of commitment is relieved of obligation for any payment to the state pursuant to Section 912, 912.1, or 912.5 for each offender who is not committed to the custody of the state solely pursuant to subdivision (c) of Section 733, and for each offender who is supervised by the county of commitment pursuant to subdivision (b) of Section 1766 or subdivision (b) of Section 1767.35. *Savings from this provision shall be added to the Youthful Offender Block Grant Fund and directed to the probation department as specified in (b).*

(d) There is hereby continuously appropriated from the General Fund, ninety-two million, five hundred

thousand ($92,500,000) or the amount in Sections 1953, 1954, or 1955, whichever is greater for the 2009-2010 fiscal year and each year thereafter adjusted for cost of living changes annually pursuant to the California Consumer Price Index. This amount shall be distributed in accordance with the formula in Section 1955 to assist counties for the expense of housing juvenile offenders.

Section 30062.2 is added to the Government Code, to read:

30062.2. (a) There is hereby established the Juvenile Probation Facility and Supervision Fund.

(b) The sum of fifty million dollars ($50,000,000) is hereby appropriated from the General Fund to the Juvenile Probation Facility and Supervision Fund for the 2009-2010 fiscal year and annually each year thereafter adjusted for cost of living changes pursuant to the California Consumer Price Index to be allocated by the State Controller to counties and deposited in each county's SLESF in the same ratios authorized under paragraph (1) of subdivision (b) of Section 30061 of the Government Code for juvenile facility repair and renovation, juvenile deferred entry of judgment programs, and intensified juvenile or young adult (under age twenty-five) probation supervision.

SEC. 5. PROTECTION AND SUPPORT FOR VICTIMS

Section 240 of the Evidence Code is amended to read:

240. (a) Except as otherwise provided in subdivision (b), "unavailable as a witness" means that the declarant is any of the following:

(1) Exempted or precluded on the ground of privilege from testifying concerning the matter to which his or her statement is relevant.

(2) Disqualified from testifying to the matter.

(3) Dead or unable to attend or to testify at the hearing because of then existing physical or mental illness or infirmity.

(4) Absent from the hearing and the court is unable to compel his or her attendance by its process.

(5) Absent from the hearing and the proponent of his or her statement has exercised reasonable diligence but has been unable to procure his or her attendance by the court's process.

(6) The declarant is present at the hearing and refuses to testify concerning the subject matter of the declarant's statement despite an order from the court to do so.

(b) A declarant is not unavailable as a witness if the exemption, preclusion, disqualification, death, inability, or absence of the declarant was brought about by the procurement or wrongdoing of the proponent of his or her statement for the purpose of preventing the declarant from attending or testifying.

(c) Expert testimony ~~which~~ *that* establishes that physical or mental trauma resulting from an alleged crime has caused harm to a witness of sufficient severity that the witness is physically unable to testify or is unable to testify without suffering substantial trauma may constitute a sufficient showing of unavailability pursuant to paragraph (3) of subdivision (a). As used in this section, the term "expert" means a physician and surgeon, including a psychiatrist, or any person described by subdivision (b), (c), or (e) of Section 1010. The introduction of evidence to establish the unavailability of a witness under this subdivision shall not be deemed procurement of unavailability, in absence of proof to the contrary.

Section 1390 is added to the Evidence Code, to read:

1390. (a) Evidence of a statement is not made inadmissible by the hearsay rule if the statement is offered against a party who has engaged or acquiesced in intentional criminal wrongdoing that has caused the unavailability of the declarant as a witness.

(b)(1) The party seeking to introduce a statement pursuant to subdivision (a) shall establish, by a preponderance of the evidence, that the elements of subdivision (a) have been met at a foundational hearing.

(2) Hearsay evidence, including the hearsay evidence that is the subject of the foundational hearing, is admissible at the foundational hearing. However, a finding that the elements of subdivision (a) have been met shall not be based solely on the unconfronted hearsay statement of the unavailable declarant, and shall be supported by independent corroborative evidence.

(3) The foundational hearing shall be conducted outside the presence of the jury. However, if the hearing

is conducted after a jury trial has begun, the judge presiding at the hearing may consider evidence already presented to the jury in deciding whether the elements of subdivision (a) have been met.

(c) If a statement to be admitted pursuant to this section includes a hearsay statement made by anyone other than the declarant who is unavailable pursuant to subdivision (a), that other hearsay statement is inadmissible unless it meets the requirements of an exception to the hearsay rule.

Section 13921.5 is added to the Government Code, to read:

13921.5. (a) There is hereby established the Crimestopper Reward Reimbursement Fund, to be administered by the board.

(b) Allocations from the Crimestopper Reward Reimbursement Fund shall be used to provide reimbursement for rewards offered and paid for information in felony cases.

(c) Reimbursement in amounts not to exceed five thousand dollars ($5,000) per claim may be paid to eligible claimants but may not exceed the actual reward paid.

(d) Reward reimbursement claims shall be paid upon proof that the underlying reward was offered and paid for evidence which actually led to arrest or conviction verified by the arresting or prosecuting agency.

(e) Qualified claimants for reimbursement include the victim of the underlying felony or his or her family, or a charitable or nonprofit organization.

(f) The board may set reward limits below the maximum, may set discrete limits for different crime classifications, may increase the class of eligible claimants, and shall post its claim procedures and forms on its web site.

(g) The Controller shall transfer ten million dollars ($10,000,000) from the General Fund to the Crimestopper Reward Reimbursement Fund for the 2009-2010 fiscal year.

(h) The Crimestopper Reward Reimbursement Fund shall be annually augmented by the State Controller so that the fund has available the amount of ten million dollars ($10,000,000), adjusted for cost of living annually according to the California Consumer Price Index.

(i) Nothing in this section shall be deemed to preclude or otherwise interfere with the Governor's power to offer rewards pursuant to Section 1547 of the Penal Code.

Section 13974.6 is added to the Government Code, to read:

13974.6. (a) The Victim Trauma Recovery Fund is hereby created for the purpose of supporting victim recovery, resource, and treatment programs to provide comprehensive recovery services to victims of crime.

(b) The board shall select up to five sites to award grants pursuant to this section. The sites shall include, but need not be limited to, all of the following programmatic components:

(1) Establishment of a victim recovery, resource, and treatment center.

(2) Implementation of a crime scene mobile outreach team to provide comprehensive intervention and debriefing for children and families.

(3) Community-based outreach.

(4) Services to family members and loved ones of homicide victims.

(c) Victim recovery, resource, and treatment programs selected by the board shall serve populations of crime victims whose needs are not currently being met, shall be distributed geographically to serve the state's population, and shall include services to all of the following:

(1) Individuals who are not aware of the breadth and range of services provided to victims of crime.

(2) Individuals residing in communities with limited services.

(3) Individuals who cannot access services due to disability.

(4) Family members and loved ones of homicide victims.

(d) The board shall award those grants beginning on July 1, 2009.

(e) The board may retain up to 5 percent of those funds for the purposes of administering those grants.

Section 136.1 of the Penal Code is amended to read:

136.1. (a) Except as provided in subdivision (c), any person who does any of the following is guilty of a public offense and shall be punished by imprisonment in a county jail for not more than one year or in the state prison:

(1) Knowingly and maliciously prevents or dissuades any witness or victim from attending or giving testimony at any trial, proceeding, or inquiry authorized by law.

(2) Knowingly and maliciously attempts to prevent or dissuade any witness or victim from attending or giving testimony at any trial, proceeding, or inquiry authorized by law.

(3) For purposes of this section, evidence that the defendant was a family member who interceded in an effort to protect the witness or victim shall create a presumption that the act was without malice.

(b) Except as provided in subdivision (c), every person who attempts to prevent or dissuade another person who has been the victim of a crime or who is witness to a crime from doing any of the following is guilty of a public offense and shall be punished by imprisonment in a county jail for not more than one year or in the state prison:

(1) Making any report of that victimization to any peace officer or state or local law enforcement officer or probation or parole or correctional officer or prosecuting agency or to any judge.

(2) Causing a complaint, indictment, information, probation or parole violation to be sought and prosecuted, and assisting in the prosecution thereof.

(3) Arresting or causing or seeking the arrest of any person in connection with that victimization.

(c) Every person doing any of the acts described in subdivision (a) or (b) knowingly and maliciously under any one or more of the following circumstances, is guilty of a felony punishable by imprisonment in the state prison for two, three, or four years under any of the following circumstances:

(1) Where the act is accompanied by force or by an express or implied threat of force or violence, upon a witness or victim or any third person or the property of any victim, witness, or any third person.

(2) Where the act is in furtherance of a conspiracy.

(3) Where the act is committed by any person who has been convicted of any violation of this section, any predecessor law hereto or any federal statute or statute of any other state which, if the act prosecuted was committed in this state, would be a violation of this section.

(4) Where the act is committed by any person for pecuniary gain or for any other consideration acting upon the request of any other person. All parties to such a transaction are guilty of a felony.

(d) Any person who, by means of force or by express or implied threat of force or violence, attempts to prevent or dissuade a judge, juror, prosecutor, public defender, or peace officer from participating in the arrest, prosecution, trial, or impartial judgment of any criminal suspect is guilty of a felony punishable by imprisonment in the state prison for two, three or four years.

(e) Any person who, by means of force or by express or implied threat of force or violence, attempts to prevent or dissuade any person from filing, authorizing, or implementing a gang injunction or nuisance abatement process in response to gang, drug, or other organized criminal activity, or from inspecting premises where such activities occur, shall be guilty of a felony punishable by imprisonment in the state prison for two, three, or four years.

(f) Any person who, by means of force or by express or implied threat of force or violence, attempts to retaliate against any person who lawfully participated in any criminal or civil process protected pursuant to subdivisions (a), (b), (d) or (e) shall be guilty of a felony punishable by imprisonment in the state prison for two, three, or four years.

~~(d)~~ *(g)* Every person attempting the commission of any act described in subdivisions (a), (b), ~~and~~ (c), *and (d)* is guilty of the offense attempted without regard to success or failure of the attempt. The fact that no person was injured physically, or in fact intimidated, shall be no defense against any prosecution under this section.

~~(e)~~ *(h)* Nothing in this section precludes the imposition of an enhancement for great bodily injury where the injury inflicted is significant or substantial.

~~(f)~~ *(i)* The use of force during the commission of any offense described in subdivision (c) shall be considered a circumstance in aggravation of the crime in imposing a term of imprisonment under subdivision (b) of Section 1170.

Section 11166.6 is added to the Penal Code, to read:

11166.6. (a) Each county may establish child advocacy centers to coordinate the activities of the various agencies involved in the investigation and prosecution of alleged child abuse, including those that provide medical services and follow-up treatment to victims of child abuse. The purpose of these centers is to protect victims of child abuse by minimizing traumatizing interviews through the coordination of efforts

of district attorneys, child welfare social workers, law enforcement, and medical personnel, among others, and to assist prosecution by reducing the chances of conflicting or inaccurate information by asking age-appropriate questions to help procure information that is admissible in court.

(b)(1) Member agencies of the child advocacy center shall, at a minimum, consist of a representative from the district attorney's office, the sheriff's department, a police department, child protective services, and may include medical and mental health professionals.

(2) Members of the local child advocacy center shall be trained to conduct child forensic interviews. The training shall include instruction in risk assessment, the dynamics of child abuse, including the abuse of children with special needs, child sexual abuse and rape of children, and legally sound and age-appropriate interview and investigation techniques.

(c) The Child Advocacy Center Fund is hereby created for the purposes of supporting child advocacy centers. Money appropriated from the fund shall be made available through the Office of Emergency Services to any public or private nonprofit agency for the establishment or maintenance, or both, of child advocacy centers that provide comprehensive child advocacy services, as specified in this section.

Section 1464 of the Penal Code is amended to read:

1464. (a) *(1) The people of the State of California find and declare that street crime, through its prevalence and brutality, creates numerous victims who require support and services that are best obtained from experienced providers. Further, because the funds allocated to the Driver Training Penalty Assessment Fund are no longer used for their original purpose, it is appropriate to redirect those funds, which are generated by criminal penalty assessments, to victim services and law enforcement training programs.*

(2) Subject to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, there shall be levied a state penalty, in an amount equal to ten dollars ($10) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses, except parking offenses as defined in subdivision (i) of Section 1463, involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the state penalties established by this section and Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the state penalty shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the state penalty shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the state penalty prescribed by this section for forfeited bail. If bail is returned, the state penalty paid thereon pursuant to this section shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the state penalty, the payment of which would work a hardship on the person convicted or his or her immediate family.

(e) After a determination by the court of the amount due, the clerk of the court shall collect the penalty and transmit it to the county treasury. The portion thereof attributable to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code shall be deposited in the appropriate county fund and 70 percent of the balance shall then be transmitted to the State Treasury, to be deposited in the State Penalty Fund, which is hereby created, and 30 percent to remain on deposit in the county general fund. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited in the State Penalty Fund shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.33 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month, except that the total amount shall not be less than the state penalty levied on fines or forfeitures for violation

of state laws relating to the protection or propagation of fish and game. These moneys shall be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to ~~32.02~~ *30.21* percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Those funds shall be made available in accordance with Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to ~~23.99~~ *32.44* percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to ~~25.70~~ *0.67* percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to ~~7.88~~ *13.80* percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to ~~0.78~~ *1.25* percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. ~~The amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars ($850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars ($850,000) shall be transferred to the Restitution Fund.~~

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to ~~8.64~~ *16.94* percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(8)(A) Once a month there shall be transferred into the Traumatic Brain Injury Fund, created pursuant to Section 4358 of the Welfare and Institutions Code, an amount equal to 0.66 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month. However, the amount of funds transferred into the Traumatic Brain Injury Fund for the 1996-97 fiscal year shall not exceed the amount of five hundred thousand dollars ($500,000). Thereafter, funds shall be transferred pursuant to the requirements of this section. Notwithstanding any other provision of law, the funds transferred into the Traumatic Brain Injury Fund for the 1997-98, 1998-99, and 1999-2000 fiscal years, may be expended by the State Department of Mental Health, in the current fiscal year or a subsequent fiscal year, to provide additional funding to the existing projects funded by the Traumatic Brain Injury Fund, to support new projects, or to do both.

(B) Any moneys deposited in the State Penalty Fund attributable to the assessments made pursuant to subdivision (i) of Section 27315 of the Vehicle Code on or after the date that Chapter 6.6 (commencing with Section 5564) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed shall be utilized in accordance with paragraphs (1) to (8), inclusive, of this subdivision.

(9) Once a month there shall be transferred into the Victim Trauma Recovery Fund created pursuant to subdivision (a) of Section 13974.6 of the Government Code an amount equal to 1.81 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month.

(10) Once a month there shall be transferred into the Child Advocacy Center Fund created pursuant to subdivision (c) of Section 11166.6 an amount equal to 1.89 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month.

Section 14027 of the Penal Code is amended to read:

14027. The Attorney General shall issue appropriate guidelines and may adopt regulations to implement this title. These guidelines shall include:

(a) A process whereby state and local agencies shall apply for reimbursement of the costs of providing witness protection services.

(b) ~~A 25 percent~~ *An appropriate level for the* match that shall be ~~required of~~ *made by* local agencies. The

Attorney General may also establish a process through which to waive the required local match when appropriate.

SEC. 6. GANG AND STREET CRIME PENALTIES

Section 594 of the Penal Code is amended to read:

594. (a) Every person who maliciously commits any of the following acts with respect to any real or personal property not his or her own, in cases other than those specified by state law, is guilty of vandalism:

(1) Defaces with graffiti or other inscribed material.

(2) Damages.

(3) Destroys.

Whenever a person violates this subdivision with respect to real property, vehicles, signs, fixtures, furnishings, or property belonging to any public entity, as defined by Section 811.2 of the Government Code, or the federal government, it shall be a permissive inference that the person neither owned the property nor had the permission of the owner to deface, damage, or destroy the property.

(b)(1) If the amount of defacement, damage, or destruction is four hundred dollars ($400) or more, vandalism is punishable by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars ($10,000), or if the amount of defacement, damage, or destruction is ten thousand dollars ($10,000) or more, by a fine of not more than fifty thousand dollars ($50,000), or by both that fine and imprisonment.

(2)(A) If the amount of defacement, damage, or destruction is less than four hundred dollars ($400), vandalism is punishable by imprisonment in a county jail not exceeding one year, or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(B) If the amount of defacement, damage, or destruction is less than four hundred dollars ($400), and the defendant has been previously convicted of vandalism or affixing graffiti or other inscribed material under Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7, vandalism is punishable 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 fine and imprisonment.

(3) More than one act of vandalism committed in any consecutive 12-month period may be aggregated for the purposes of paragraphs (1) and (2), if the vandalism was the result of a common scheme, purpose, or plan.

(c) Upon conviction of any person under this section for acts of vandalism consisting of defacing property with graffiti or other inscribed materials, the court may, in addition to any punishment imposed under subdivision (b), order the defendant to clean up, repair, or replace the damaged property himself or herself, or order the defendant, and his or her parents or guardians if the defendant is a minor, to keep the damaged property or another specified property in the community free of graffiti for up to one year. Participation of a parent or guardian is not required under this subdivision if the court deems this participation to be detrimental to the defendant, or if the parent or guardian is a single parent who must care for young children.

(d) If a minor is personally unable to pay a fine levied for acts prohibited by this section, the parent of that minor shall be liable for payment of the fine. A court may waive payment of the fine, or any part thereof, by the parent upon a finding of good cause.

(e) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design, that is written, marked, etched, scratched, drawn, or painted on real or personal property.

(f) The court may order any person ordered to perform community service or graffiti removal pursuant to paragraph (1) of subdivision (c) to undergo counseling.

~~(g) This section shall become operative on January 1, 2002.~~

Section 10851 of the Vehicle Code is amended to read:

10851. (a) A person who drives or takes a vehicle not his or her own, without the consent of the owner thereof, and with intent either to permanently or temporarily deprive the owner thereof of his or her title to

or possession of the vehicle, whether with or without intent to steal the vehicle, or a person who is a party or an accessory to or an accomplice in the driving or unauthorized taking or stealing, is guilty of a public offense and, upon conviction thereof, shall be punished by imprisonment in a county jail for not more than one year or in the state prison or by a fine of not more than five thousand dollars ($5,000), or by both the fine and imprisonment.

(b) If the vehicle described in subdivision (a) is (1) an ambulance, as defined in subdivision (a) of Section 165, (2) a distinctively marked vehicle of a law enforcement agency or fire department, ~~taken while the ambulance or vehicle is on an emergency call and this fact is known to the person driving or taking, or any person who is party or an accessory to or an accomplice in the driving or unauthorized taking or stealing,~~ or (3) a vehicle that is modified for the use of a disabled veteran or other disabled person and that displays a distinguishing license plate or placard issued pursuant to Section 22511.5 or 22511.9, the offense is a felony punishable by imprisonment in the state prison for two, three, or four years or by a fine of not more than ten thousand dollars ($10,000), or by both the fine and imprisonment.

(c) In a prosecution for a violation of subdivision (a) or (b), the consent of the owner of a vehicle to its taking or driving shall not in any case be presumed or implied because of the owner's consent on a previous occasion to the taking or driving of the vehicle by the same or a different person.

(d) The existence of a fact that makes subdivision (b) applicable shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the *trier of fact* ~~jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury~~.

(e) A person who has been convicted of one or more previous violations of this section, or grand theft of a vehicle in violation of subdivision (d) of Section 487 of the Penal Code, former subdivision (3) of Section 487 of the Penal Code, as that section read prior to being amended by Section 4 of Chapter 1125 of the Statutes of 1993, or Section 487h of the Penal Code, is punishable as set forth in Section 666.5 of the Penal Code. The existence of a fact that would bring a person under *subdivision (f), (g), (h), (i), or (j), or* Section 666.5 of the Penal Code, or any combination, shall be alleged in the ~~information or indictment~~ *accusatory pleading* and either admitted by the defendant in open court, or found to be true by the *trier of fact* ~~jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere, or by trial by the court sitting without a jury~~.

~~(f) This section shall become operative on January 1, 1997.~~

(f) A person who violates subdivision (a) as a principal or accessory to the taking of a vehicle in exchange for consideration or for the purpose of sale or transport of the vehicle or its components, in addition to other penalties prescribed by law, is subject to an additional one year imprisonment in the state prison.

(g) A person who violates subdivision (a) as a principal or accessory to the taking of a vehicle that, prior to its recovery, is used in the commission of an offense that is a felony, in addition to other penalties prescribed by law, is subject to an additional one year imprisonment in the state prison.

(h) A person who violates subdivision (a) as a principal or accessory to the taking of a vehicle and with intent to use the vehicle in the commission of a felony, in addition to other penalties prescribed by law, is subject to an additional one year imprisonment in the state prison.

(i) A person who commits a felony violation of subdivision (a) as a principal or accessory to the taking of a vehicle that, prior to its recovery, is the subject of a pursuit in violation of Sections 2800.1, 2800.2, 2800.3, or 2800.4, in addition to other penalties prescribed by law, is subject to an additional one year imprisonment in the state prison.

(j) A person who violates subdivision (a) as a principal or accessory to the taking of a vehicle that, prior to its recovery, is involved in a collision, in addition to other penalties prescribed by law, is subject to an additional one year imprisonment in the state prison and an additional and consecutive one year imprisonment in the state prison for each person, other than an accessory, who suffers personal injury as a proximate cause of that collision.

Section 666.5 of the Penal Code is amended to read:

666.5. (a) ~~Every~~ *A* person who, having been previously convicted of a ~~felony~~ violation of Section 10851 of the Vehicle Code, or ~~felony~~ grand theft involving an automobile in violation of subdivision (d) of Section 487 or former subdivision (3) of Section 487, as that section read prior to being amended by Section 4 of Chapter 1125 of the Statutes of 1993, or ~~felony~~ grand theft involving a motor vehicle, as defined in Section 415 of the Vehicle Code, a trailer, as defined in Section 630 of the Vehicle Code, special construction equipment, as defined in Section 565 of the Vehicle Code, or a vessel, as defined in Section 21 of the Harbors and Navigation Code in violation of former Section 487h, or a ~~felony~~ violation of Section 496d regardless of whether or not the person actually served a prior prison term for those offenses, is subsequently convicted of any of these offenses shall be punished by imprisonment in the state prison for two, three, or four years, or a fine of ten thousand dollars ($10,000), or both the fine and the imprisonment.

(b) For the purposes of this section, the terms "special construction equipment" and "vessel" are limited to motorized vehicles and vessels.

(c) The existence of any fact that would bring a person under subdivision (a) shall be alleged in the *accusatory pleading* ~~information or indictment~~ and either admitted by the defendant in open court, or found to be true by the *trier of fact* ~~jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury~~.

(d) A person who is subject to punishment under this section, having previously been convicted of two or more of the offenses enumerated in subdivision (a), may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this subdivision, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

Section 707.005 is added to the Welfare and Institutions Code, to read:

707.005. For purposes of subdivision (b) of Section 707, with regard to a minor, in any case in which the minor is alleged to be a person described in Section 602, when he or she was 14 years of age or older, by reason of a felony violation of Section 186.22 of the Penal Code, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon the evidence, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court, applying the criteria and subject to the procedures described in subdivision (b) of Section 707. If the minor is dealt with under the juvenile court law, he or she is eligible for commitment to the Department of Corrections and Rehabilitation's Division of Juvenile Facilities, notwithstanding Sections 731 and 731.1.

Section 32 of the Penal Code is amended to read:

32. *(a)* Every person who, after a felony has been committed, harbors, conceals or aids a principal in such felony, with the intent that said principal may avoid or escape from arrest, trial, conviction or punishment, having knowledge that said principal has committed such felony or has been charged with such felony or convicted thereof, is an accessory to such felony.

(b) Any person who knowingly makes a materially false statement to a peace officer or prosecutor regarding facts relevant to investigation of a felony committed for the benefit of, at the direction of, or in association with a criminal street gang as described in Section 186.22, or a violent felony as described in subdivision (c) of 667.5, shall be an accessory to that felony if all of the following are true:

(1) Prior to making the false statement the person was not a principal or accessory to the felony.

(2) The statement was made with the intent that the principal may avoid or escape arrest, trial, conviction, or punishment.

(3) The person either had knowledge that said principal had committed such felony or the principal is convicted of the underlying felony.

(c) The provisions of subdivision (b) shall not be construed to limit prosecution for making false statements under any other provision of law.

Section 186.22 of the Penal Code is amended to read:

186.22. (a) Any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, and who willfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang, shall be punished by

imprisonment in a county jail for a period not to exceed one year, or by imprisonment in the state prison for 16 months, or two or three years.

(b)(1) Except as provided in paragraphs (4) and (5), any person who ~~is convicted of~~ *commits* a felony *or attempted felony* ~~committed~~ 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, shall, ~~upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted,~~ be punished *by an additional and consecutive term of imprisonment in the state prison* as follows:

(A) Except as provided in subparagraphs (B) and (C), the person shall be punished by an additional term of two, three, or four years at the court's discretion.

(B) If the felony is a serious felony, as defined in subdivision (c) of Section 1192.7, the person shall be punished by an additional term of five years.

(C) If the felony is a violent felony, as defined in subdivision (c) of Section 667.5, the person shall be punished by an additional term of 10 years.

(2) If the underlying felony described in paragraph (1) is committed on the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school, during hours in which the facility is open for classes or school-related programs or when minors are using the facility, that fact shall be a circumstance in aggravation of the crime in imposing a term under paragraph (1).

(3) ~~The court shall order the imposition of the middle term of the sentence enhancement, unless there are circumstances in aggravation or mitigation.~~ The court shall state the reasons for its choice of sentencing enhancements on the record at the time of the sentencing.

(4) Any person who ~~is convicted of~~ *commits* a felony enumerated in this paragraph ~~committed~~ 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, shall, ~~upon conviction of that felony, be sentenced to an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the greater of~~ *in addition to any other enhancements or punishment provisions that may apply, be punished as follows*:

(A) ~~The term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 3046, if the felony is any of the offenses enumerated in subparagraph (B) or (C) of this paragraph.~~

~~(B) Imprisonment~~ *By imprisonment* in the state prison for 15 years *to life*, if the felony is a home invasion robbery, in violation of subparagraph (A) of paragraph (1) of subdivision (a) of Section 213; carjacking, as defined in Section 215; a felony violation of Section 246; or a *felony* violation of Section ~~12022.55~~ *12034*.

~~(C) Imprisonment~~ *(B) By imprisonment* in the state prison for ~~seven years~~ *life*, if the felony is extortion, as defined in Section 519; or threats to victims, ~~and~~ witnesses, *judges, jurors, prosecutors, public defenders, or peace officers*, as defined in Section 136.1.

(5) *(A)* Except as provided in paragraph (4) *and subparagraph (B)*, any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life shall not be paroled until a minimum of 15 calendar years have been served.

(B) For any felony described in subparagraph (A), if the punishment provided in paragraph (1) of this subdivision would result in a longer term of imprisonment, then it shall apply instead of the punishment provided in subparagraph (A).

(c) If the court grants probation or suspends the execution of sentence imposed upon the defendant for a violation of subdivision (a), or in cases involving a true finding of the enhancement enumerated in subdivision (b), the court shall require that the defendant serve a minimum of 180 days in a county jail as a condition thereof.

(d) Any person who ~~is convicted of~~ *commits* a public offense punishable as a felony or a misdemeanor, ~~which is committed~~ 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, shall be

punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for a period not to exceed one year, but not less than 180 days, and shall not be eligible for release upon completion of sentence, parole, or any other basis, until he or she has served 180 days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in a county jail.

(e) As used in this chapter, "pattern of criminal gang activity" means the commission of, attempted commission of, conspiracy to commit, or solicitation of, sustained juvenile petition for, or conviction of two or more of the following offenses, provided at least one of these offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses were committed on separate occasions, or by two or more persons:

(1) Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in Section 245.

(2) Robbery, as defined in Chapter 4 (commencing with Section 211) of Title 8 of Part 1.

(3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1.

(4) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances as defined in Sections 11054, 11055, 11056, 11057, and 11058 of the Health and Safety Code.

(5) Shooting at an inhabited dwelling or occupied motor vehicle, as defined in Section 246.

(6) Discharging or permitting the discharge of a firearm from a motor vehicle, as defined in subdivisions (a) and (b) of Section 12034.

(7) Arson, as defined in Chapter 1 (commencing with Section 450) of Title 13.

(8) The intimidation *or threatening* of witnesses, ~~and~~ victims, *judges, jurors, prosecutors, public defenders, or peace officers,* as defined in Section 136.1.

(9) Grand theft, as defined in subdivision (a) or (c) of Section 487.

(10) Grand theft of any firearm, vehicle, trailer, or vessel.

(11) Burglary, as defined in Section 459.

(12) Rape, as defined in Section 261.

(13) Looting, as defined in Section 463.

(14) Money laundering, as defined in Section 186.10.

(15) Kidnapping, as defined in Section 207.

(16) Mayhem, as defined in Section 203.

(17) Aggravated mayhem, as defined in Section 205.

(18) Torture, as defined in Section 206.

(19) Felony extortion, as defined in Sections 518 and 520.

(20) Felony vandalism, as defined in paragraph (1) of subdivision (b) of Section 594.

(21) Carjacking, as defined in Section 215.

(22) The sale, delivery, or transfer of a firearm, as defined in Section 12072.

(23) Possession of a pistol, revolver, or other firearm capable of being concealed upon the person in violation of paragraph (1) of subdivision (a) of Section 12101.

(24) Threats to commit crimes resulting in death or great bodily injury, as defined in Section 422.

(25) Theft and unlawful taking or driving of a vehicle, as defined in Section 10851 of the Vehicle Code.

(26) Felony theft of an access card or account information, as defined in Section 484e.

(27) Counterfeiting, designing, using, attempting to use an access card, as defined in Section 484f.

(28) Felony fraudulent use of an access card or account information, as defined in Section 484g.

(29) Unlawful use of personal identifying information to obtain credit, goods, services, or medical information, as defined in Section 530.5.

(30) Wrongfully obtaining Department of Motor Vehicles documentation, as defined in Section 529.7.

(31) Prohibited possession of a firearm in violation of Section 12021.

(32) Carrying a concealed firearm in violation of Section 12025.

(33) Carrying a loaded firearm in violation of Section 12031.

(f) As used in this chapter, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive, of subdivision (e), having a common name or common identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

(g) ~~Notwithstanding any other law, the court may strike the additional punishment for the enhancements provided in this section or~~ *The court may* refuse to impose the minimum jail sentence for misdemeanors in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(h) Notwithstanding any other provision of law, for each person committed to the Division of Juvenile Facilities for a conviction pursuant to subdivision (a) or (b) of this section, the offense shall be deemed one for which the state shall pay the rate of 100 percent of the per capita institutional cost of the Division of Juvenile Facilities, pursuant to Section 912.5 of the Welfare and Institutions Code.

(i) In order to secure a conviction or sustain a juvenile petition, pursuant to subdivision (a) it is not necessary for the prosecution to prove that the person devotes all, or a substantial part, of his or her time or efforts to the criminal street gang, nor is it necessary to prove that the person is a member of the criminal street gang. Active participation in the criminal street gang is all that is required.

(j) A pattern of gang activity may be shown by the commission of one or more of the offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), and the commission of one or more of the offenses enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive of subdivision (e). A pattern of gang activity cannot be established solely by proof of commission of offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), alone.

(k)(1) Notwithstanding paragraph (4) of subdivision (a) of Section 166, any willful and knowing violation of any injunction issued pursuant to Section 3479 of the Civil Code against a criminal street gang, as defined in this section, or its individual members, shall constitute contempt of court, a misdemeanor, punishable by imprisonment in a county jail for not more than one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(2) A second violation of any order described in paragraph (1) occurring within seven years of a prior violation of any of those orders is punishable by imprisonment in a county jail for not less than 90 days and not more than one year.

(3) A third or subsequent violation of any order described in paragraph (1) occurring within seven years of the prior violation of any of those orders shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail shall be imprisoned for a period not to exceed one year, but not less than 180 days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in the county jail.

(4) The penalties in this subdivision shall apply unless a greater penalty is authorized by subdivision (d) or any other provision or provisions of law.

(l) Any person found guilty as an accessory to a felony, within the meaning of Section 32, shall be subject to one-half the punishment prescribed for a principal in such felony if it is pled and proved that the felony was committed for the benefit of, at the direction of, or in association with any criminal street gang unless a greater penalty is authorized by any other provision or provisions of law.

Section 186.22a of the Penal Code is amended to read:

186.22a. (a) Every building or place used by members of a criminal street gang for the purpose of the commission of the offenses listed in subdivision (e) of Section 186.22 or any offense involving dangerous or deadly weapons, burglary, or rape, and every building or place wherein or upon which ~~that~~ criminal conduct by gang members takes place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

(b) Any action for injunction or abatement filed pursuant to subdivision (a), including an action filed by the Attorney General, shall proceed according to the provisions of Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code~~, except that all of the following shall apply:~~

~~(1) The court shall not assess a civil penalty against any person unless that person knew or should have known of the unlawful acts.~~

~~(2) No order of eviction or closure may be entered.~~

~~(3) All injunctions issued shall be limited to those necessary to protect the health and safety of the residents or the public or those necessary to prevent further criminal activity.~~

~~(4) Suit may not be filed until 30 day notice of the unlawful use or criminal conduct has been provided to the owner by mail, return receipt requested, postage prepaid, to the last known address~~.

(c) Whenever an injunction is issued pursuant to subdivision (a), or Section 3479 of the Civil Code, to abate gang activity constituting a nuisance, the Attorney General may maintain an action for money damages on behalf of the community or neighborhood injured by that nuisance. Any money damages awarded shall be paid by or collected from assets of the criminal street gang or its members that were derived from the criminal activity being abated or enjoined. Only persons who knew or should have known of the unlawful acts shall be personally liable for the payment of the damages awarded. In a civil action for damages brought pursuant to this subdivision, the Attorney General may use, but is not limited to the use of, the testimony of experts to establish damages suffered by the community or neighborhood injured by the nuisance. The damages recovered pursuant to this subdivision shall be deposited into a separate segregated fund for payment to the governing body of the city or county in whose political subdivision the community or neighborhood is located, and that governing body shall use those assets solely for the benefit of the community or neighborhood that has been injured by the nuisance.

(d) No nonprofit or charitable organization which is conducting its affairs with ordinary care or skill, and no governmental entity, shall be abated pursuant to subdivisions (a) and (b).

(e) Nothing in this chapter shall preclude any aggrieved person from seeking any other remedy provided by law.

(f) (1) Any firearm, ammunition which may be used with the firearm, or any deadly or dangerous weapon which is owned or possessed by a member of a criminal street gang for the purpose of the commission of any of the offenses listed in subdivision (e) of Section 186.22, or the commission of any burglary or rape, may be confiscated by any law enforcement agency or peace officer.

(2) In those cases where a law enforcement agency believes that the return of the firearm, ammunition, or deadly weapon confiscated pursuant to this subdivision, is or will be used in criminal street gang activity or that the return of the item would be likely to result in endangering the safety of others, the law enforcement agency shall initiate a petition in the superior court to determine if the item confiscated should be returned or declared a nuisance.

(3) No firearm, ammunition, or deadly weapon shall be sold or destroyed unless reasonable notice is given to its lawful owner if his or her identity and address can be reasonably ascertained. The law enforcement agency shall inform the lawful owner, at that person's last known address by registered mail, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing and that the failure to respond shall result in a default order forfeiting the confiscated firearm, ammunition, or deadly weapon as a nuisance.

(4) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing.

(5) At the hearing, the burden of proof is upon the law enforcement agency or peace officer to show by a preponderance of the evidence that the seized item is or will be used in criminal street gang activity or that return of the item would be likely to result in endangering the safety of others. All returns of firearms shall be subject to Section 12021.3.

(6) If the person does not request a hearing within 30 days of the notice or the lawful owner cannot be ascertained, the law enforcement agency may file a petition that the confiscated firearm, ammunition, or

deadly weapon be declared a nuisance. If the items are declared to be a nuisance, the law enforcement agency shall dispose of the items as provided in Section 12028.

Section 186.22b is added to the Penal Code, to read:

186.22b. (a) A criminal street gang may be sued in the name it has assumed or by which it is known.

(b) Delivery by hand of a copy of any process against the criminal street gang to any natural person designated by it as agent for service of process shall constitute valid service on the criminal street gang. If designation of an agent for the purpose of service has not been made, or if the agent cannot with reasonable diligence be found, the court or judge shall make an order that service be made upon the criminal street gang by delivery by hand of a copy of the process to three or more members of the criminal street gang designated in the order who actively participate in the criminal street gang. The court may, in its discretion, order, in addition to the foregoing, that a summons be served in any manner which is reasonably calculated to give actual notice to the criminal street gang. Service in the manner ordered pursuant to this section shall constitute valid service on the criminal street gang.

Section 186.26 of the Penal Code is amended to read:

186.26. (a) Any person who solicits or recruits another to actively participate in a criminal street gang, as defined in subdivision (f) of Section 186.22, with the intent that the person solicited or recruited *actively participate in the criminal street gang* ~~participate in a pattern of criminal street gang activity, as defined in subdivision (e) of Section 186.22,~~ or with the intent that the person solicited or recruited promote, further, or assist in any felonious conduct by members of the criminal street gang, shall be punished by imprisonment in the state prison for 16 months, or two or three years.

(b) Any person who threatens another person with physical violence on two or more separate occasions within any 30-day period with the intent to coerce, induce, or solicit any person to actively participate in a criminal street gang, as defined in subdivision (f) of Section 186.22, shall be punished by imprisonment in the state prison for two, three, or four years.

(c) Any person who uses physical violence to coerce, induce, or solicit another person to actively participate in any criminal street gang, as defined in subdivision (f) of Section 186.22, or to prevent the person from leaving a criminal street gang, shall be punished by imprisonment in the state prison for three, four, or five years.

(d) If the person solicited, recruited, coerced, or threatened pursuant to subdivision (a), (b), or (c) is a minor, an additional term of three years shall be imposed in addition and consecutive to the penalty prescribed for a violation of any of these subdivisions.

(e) If the person solicited, recruited, coerced, or threatened pursuant to subdivision (a), (b), or (c) is a minor under the age of 14, an additional term of five years shall be imposed in addition and consecutive to the penalty prescribed for a violation of any of these subdivisions.

(f) Any person who violates subdivisions (b) or (c) shall be a principal to any subsequent felony committed by the subject of his or her solicitation, recruitment, coercion, or threat in the event that:

(1) The subject commits a felony for the benefit of, at the direction of, or in association with the criminal street gang, and

(2) The felony occurs within one year of the last act constituting a violation of this section.

~~(e)~~ *(g)* Nothing in this section shall be construed to limit prosecution under any other provision of law.

Section 186.30 of the Penal Code is amended to read:

186.30. (a) *(1)* Any person described in subdivision (b) shall register with the chief of police of the city in which he or she resides, or the sheriff of the county if he or she resides in an unincorporated area *or a city that has no police department,* within 10 days of release from custody or within 10 days of his or her arrival in any city, county, or city and county to reside there, whichever occurs first, and annually thereafter, and upon changing residence.

(2) If the person who is registering has more than one residential address at which he or she regularly resides, he or she shall register in each of the jurisdictions in which he or she regularly resides, in accordance with paragraph (1), regardless of the number of days or nights spent there. If all of the addresses are within the same jurisdiction, the person shall provide the registering authority with all of the addresses where he or she regularly resides.

(b) Subdivision (a) shall apply to any person convicted in a criminal court or who has had a petition sustained in a juvenile court in this state for any of the following offenses:

(1) Subdivision (a) of Section 186.22.

(2) Any crime where the enhancement specified in subdivision (b) of Section 186.22 is found to be true.

(3) Any crime that the court finds is gang related at the time of sentencing or disposition.

(c)(1) Any person who is required to register under this section based on a misdemeanor conviction or juvenile adjudication who willfully violates any requirement of this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Any person who is required to register under this section based on a felony conviction or juvenile adjudication who willfully violates any requirement of this section or who has a prior adjudication for the offense of failing to register under this section and who subsequently and willfully violates any requirement of this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years. If probation is granted or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the person serves at least 90 days in a county jail. The penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(d) For the purposes of this section and Section 186.32, imposition of the requirement to register shall be effective on the day the registrant is sentenced or on the day of disposition in the juvenile court unless he or she is in custody, in which case the requirement to register shall become effective upon the registrant's release from custody.

(e) The registration requirement shall terminate five years after the date it becomes effective unless the registrant is subsequently incarcerated in which case the court may toll the registration requirement or re-impose gang registration as a condition upon release from custody.

Section 186.34 is added to the Penal Code, to read:

186.34. (a) Beginning no later than July 1, 2009, the Department of Justice shall, on a monthly basis, search all disposition data submitted by California criminal justice agencies for all persons who have been convicted or adjudicated of a violation of subdivision (a) of Section 186.22 or as to whom a sentencing allegation has been found true pursuant to subdivision (b) of Section 186.22. The department shall make information regarding these persons electronically available only to California criminal justice agencies on a secured Gang Registry department site. The information shall include the person's full name, date of birth, and, as to each conviction or adjudication, the detaining agency, arresting, or booking agency, to the extent this information is available from the disposition data submitted to the department.

Section 11377 of the Health and Safety Code is amended to read:

11377. (a) Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or in the state prison, *provided however, that every person who possesses any controlled substance that is specified in paragraph (2) of subdivision (d) of Section 11055 shall be punished by imprisonment in the state prison.*

(b)(1) Any person who violates subdivision (a) by unlawfully possessing a controlled substance specified in subdivision (f) of Section 11056, and who has not previously been convicted of a violation involving a controlled substance specified in subdivision (f) of Section 11056, is guilty of a misdemeanor.

(2) Any person who violates subdivision (a) by unlawfully possessing a controlled substance specified in subdivision (g) of Section 11056 is guilty of a misdemeanor.

(c) In addition to any fine assessed under subdivision (b), the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates subdivision (a), with the proceeds of this fine to be

used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

Section 11378 of the Health and Safety Code is amended to read:

11378. Except as otherwise provided in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses for sale any controlled substance which is ~~(1)~~ *(a)* classified in Schedule III, IV, or V and which is not a narcotic drug, except subdivision (g) of Section 11056, ~~(2)~~ *(b)* specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), ~~(3)~~ *(c)* specified in paragraph (11) of subdivision (c) of Section 11056, ~~(4)~~ *(d)* specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or ~~(5)~~ *(e)* specified in subdivision (d), (e), or (f), except paragraph (3) of subdivision (e) and subparagraphs (A) and (B) of paragraph (2) of subdivision (f), of Section 11055, shall be punished by imprisonment in the state prison, *provided however, that every person who possesses for sale any controlled substance that is specified in paragraph (2) of subdivision (d) of Section 11055 shall be punished by imprisonment in the state prison for two, three, or four years.*

Section 11379 of the Health and Safety Code is amended to read:

11379. (a) Except as otherwise provided in subdivision (b) and in Article 7 (commencing, with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, except subdivision (g) of Section 11056, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d) or (e), except paragraph (3) of subdivision (e), or specified in subparagraph (A) of paragraph (1) of subdivision (f), of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in the state prison for a period of two, three, or four years, *provided however, that every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any controlled substance that is specified in paragraph (2) of subdivision (d) of Section 11055 shall be punished by three, four, or five years.*

(b) Notwithstanding the penalty provisions of subdivision (a), any person who transports for sale any controlled substances specified in subdivision (a) within this state from one county to another noncontiguous county shall be punished by imprisonment in the state prison for three, six, or nine years.

Section 12022.52 is added to the Penal Code, to read:

12022.52. (a) Notwithstanding any other provision of law, any person prohibited from possessing a firearm because of a previous felony conviction or juvenile adjudication, upon conviction for violation of Section 12025 or 12031, shall be punished by an additional 10 years in prison if either of the following circumstances are pled and proved:

(1) The offender was previously convicted of, or adjudicated to have committed, any of the following:

(A) A felony violation involving possession of a firearm, as described in Section 12021 or 12021.1.

(B) Manufacture, sale, possession for sale, or transport of a controlled substance amounting to a felony, as described in Division 10 of the Health and Safety Code.

(C) A felony violation involving assault or battery of a peace officer, as described in Section 243 or 245.

(D) A violent felony, as described in subdivision (c) of Section 667.5.

(E) A felony gang offense that constitutes a violation of subdivision (a) or (b) of Section 186.22.

(F) Any felony in which it was pled and proved that the offender personally used a firearm.

(2) If, at the time of the offense that resulted in conviction for violation of Section 12025 or 12031, any of the following apply:

(A) The offender was on felony probation, parole, free on bail, awaiting sentencing, or subject to a felony arrest warrant.

(B) The offender was in felony possession of a controlled substance.

(C) The offender feloniously assaulted or battered a peace officer.

(b) This section shall not be construed to permit imposition of dual penalties based upon the same factual circumstances that support a penalty enhancement for assaulting a peace officer with a firearm imposed pursuant to Section 12022.53.

Section 12022.53 of the Penal Code is amended to read:

12022.53. (a) This section applies to the following felonies:

(1) Section 187 (murder).

(2) Section 203 or 205 (mayhem).

(3) Section 207, 209, or 209.5 (kidnapping)

(4) Section 211 (robbery).

(5) Section 215 (carjacking).

(6) Section 220 (assault with intent to commit a specified felony).

(7) Subdivision (d) of Section 245 (assault with a firearm on a peace officer or firefighter).

(8) Section 261 or 262 (rape).

(9) Section 264.1 (rape or sexual penetration in concert).

(10) Section 286 (sodomy).

(11) Section 288 or 288.5 (lewd act on a child).

(12) Section 288a (oral copulation).

(13) Section 289 (sexual penetration).

(14) *Subdivision (a) of Section 460 (first degree burglary).*

(15) Section 4500 (assault by a life prisoner).

~~(15)~~ *(16)* Section 4501 (assault by a prisoner).

~~(16)~~ *(17)* Section 4503 (holding a hostage by a prisoner).

~~(17)~~ *(18)* Any felony punishable by death or imprisonment in the state prison for life.

~~(18)~~ *(19)* Any attempt to commit a crime listed in this subdivision other than an assault.

(b) Notwithstanding any other provision of law, any person who, in the commission of a felony specified in subdivision (a), personally uses a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 10 years. The firearm need not be operable or loaded for this enhancement to apply.

(c) Notwithstanding any other provision of law, any person who, in the commission of a felony specified in subdivision (a), personally and intentionally discharges a firearm, shall be punished by an additional and consecutive term of imprisonment in the state prison for 20 years.

(d) Notwithstanding any other provision of law, any person who, in the commission of a felony specified in subdivision (a), Section 246, or subdivision (c) or (d) of Section 12034, personally and intentionally discharges a firearm and proximately causes great bodily injury, as defined in Section 12022.7, or death, to any person other than an accomplice, shall be punished by an additional and consecutive term of imprisonment in the state prison for 25 years to life.

(c)~~(1)~~ The enhancements provided in this section shall apply to any person *charged as* ~~who is~~ a principal in the commission of an offense *that includes an allegation pursuant to this section.* ~~if both of the following are pled and proved:~~

~~(A) The person violated subdivision (b) of Section 186.22.~~

~~(B) Any principal in the offense committed any act specified in subdivision (b), (c), or (d).~~

~~(2) An enhancement for participation in a criminal street gang pursuant to Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1 shall not be imposed on a person in addition to an enhancement imposed pursuant to this subdivision, unless the person personally used or personally discharged a firearm in the commission of the offense.~~

(f) Only one additional term of imprisonment under this section shall be imposed per person for each crime. If more than one enhancement per person is found true under this section, the court shall impose upon that person the enhancement that provides the longest term of imprisonment. An enhancement involving a firearm specified in Section 12021.5, 12022, 12022.3, 12022.4, 12022.5, or 12022.55 shall not

be imposed on a person in addition to an enhancement imposed pursuant to this section. An enhancement for great bodily injury as defined in Section 12022.7, 12022.8, or 12022.9 shall not be imposed on a person in addition to an enhancement imposed pursuant to subdivision (d).

(g) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person found to come within the provisions of this section.

(h) Notwithstanding Section 1385 or any other provision of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(i) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 or pursuant to Section 4019 or any other provision of law shall not exceed 15 percent of the total term of imprisonment imposed on a defendant upon whom a sentence is imposed pursuant to this section.

(j) For the penalties in this section to apply, the existence of any fact required under subdivision (b), (c), or (d) shall be alleged in the accusatory pleading and either admitted by the defendant in open court or found to be true by the trier of fact. When an enhancement specified in this section has been admitted or found to be true, the court shall impose punishment for that enhancement pursuant to this section rather than imposing punishment authorized under any other provision of law, unless another enhancement provides for a greater penalty or a longer term of imprisonment

(k) When a person is found to have used or discharged a firearm in the commission of an offense that includes an allegation pursuant to this section and the firearm is owned by that person, a coparticipant, or a coconspirator, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(l) The enhancements specified in this section shall not apply to the lawful use or discharge of a firearm by a public officer, as provided in Section 196, or by any person in lawful self-defense, lawful defense of another, or lawful defense of property, as provided in Sections 197, 198, and 198.5.

Section 12022.57 is added to the Penal Code, to read:

12022.57. (a) In any case in which a person violates Section 12022.52 or commits a felony involving the use of a firearm and the offense occurs in whole or in part within a motor vehicle, or the firearm or the person and the firearm are found within a motor vehicle, the following conditions shall apply:

(1) If the subject motor vehicle is owned, driven, or controlled by the offender, in addition to any other applicable penalties, the Department of Motor Vehicles shall revoke the privilege of the offender to operate a motor vehicle pursuant to the procedures described in Section 13350 of the Vehicle Code.

(2) In the event the offender is incarcerated or subject to custodial treatment or house arrest as a consequence of the underlying offense, the revocation of the privilege to operate a motor vehicle described in paragraph (1) shall be tolled until his or her release from custody.

(3) If the subject vehicle is registered to the offender or other principal to the offense it may be impounded for up to 60 days.

(b) The registered and legal owner of a vehicle that is removed and seized under subdivision (a), or their agents, shall be provided the opportunity for a storage hearing to determine the validity of, or consider any mitigating circumstances attendant to the storage, in accordance with Section 22852 of the Vehicle Code.

Section 2933.25 is added to the Penal Code, to read:

(a) Notwithstanding any other provision of law, any person who is convicted of any felony offense that is punishable by imprisonment in the state prison for life shall be ineligible to receive any conduct credit reduction of his or her term of imprisonment pursuant to this chapter, Section 4019, or any other law providing for conduct credit reduction.

(b) As used in this section, life imprisonment includes all sentences for any crime or enhancement with a maximum term of life, whether with or without the possibility of parole, and whether with or without a specific minimum term or minimum period of confinement before eligibility for parole.

(c) This section shall only apply to offenses that are committed on or after the date that this section becomes operative.

Section 653.75 of the Penal Code is amended to read:

653.75. Any person who commits any public offense while in custody in any local detention facility, as

defined in Section 6031.4, or any state prison, as defined in Section 4504, is guilty of a crime. That crime shall be punished as provided in the section prescribing the punishment for that public offense, *or in Section 4505.*

Section 653.77 is added to the Penal Code, to read:

653.77. (a) Any person who willfully removes or disables an electronic, global positioning system (GPS), or other monitoring device affixed to his or her person, or the person of another, knowing that the device was affixed as a condition of a criminal sentence, juvenile court disposition, parole, or probation, is guilty of a public offense.

(b)(1) Any person subject to electronic, GPS, or other monitoring device based on a misdemeanor conviction, or based on a juvenile adjudication for a misdemeanor offense, who willfully violates subdivision (a) is guilty of misdemeanor, punishable by imprisonment in a county jail for up to one year, by a fine of up to one thousand dollars ($1,000), or both that fine and imprisonment.

(2) Except as provided in subdivision (e), any person who willfully removes or disables an electronic, GPS, or other monitoring device affixed to another person where that device was affixed to the other person based upon a misdemeanor conviction, or based upon a juvenile adjudication for a misdemeanor offense, is guilty of misdemeanor, punishable by imprisonment in a county jail for up to one year, by a fine of up to one thousand dollars ($1,000), or both that fine and imprisonment.

(c)(1) Any person subject to electronic, GPS, or other monitoring device based on a felony conviction, juvenile adjudication for a felony offense, or on parole for a felony offense, who willfully violates subdivision (a) is guilty of a felony, punishable by imprisonment in the state prison for 16 months, 2, or 3 years.

(2) Except as provided in subdivision (e), any person who willfully removes or disables an electronic, GPS, or other monitoring device affixed to another person where that device was affixed to the other person based upon a felony conviction, or based upon a juvenile conviction for a felony offense is guilty of a felony, punishable by imprisonment in the state prison for 16 months, 2, or 3 years.

(d) Nothing in this section shall be construed to prevent punishment pursuant to any other provision of law that imposes a greater or more severe punishment, including, but not limited to, Section 594.

(e) This section shall not apply to the removal or disabling of an electronic, GPS, or other monitoring device by a physician, emergency medical services technician, or by any other emergency response or medical personnel when doing so is necessary during the course of medical treatment of the person subject to the electronic, GPS, or other monitoring device. This section shall also not apply where the removal or disabling of the electronic, GPS, or other monitoring device is authorized, or required, by a court of law or by the law enforcement, probation, or parole authority or other entity responsible for placing the electronic, GPS, or other monitoring device upon the person or, at the time, has the authority and responsibility to monitor the electronic, GPS, or other monitoring device.

Section 4504 of the Penal Code is amended to read:

4504. For purposes of this chapter:

(a) A person is deemed confined in a "state prison" if he *or she* is confined, *by order made pursuant to law,* in any of the prisons and institutions ~~specified in Section 5003 by order made pursuant to law, including, but not limited to, commitments to~~ *under the jurisdiction of* the Department of Corrections ~~or the Department of the Youth Authority~~ *and Rehabilitation*, regardless of the purpose of ~~such~~ *the* confinement and regardless of the validity of the order directing ~~such~~ *the* confinement, until a judgment of a competent court setting aside ~~such~~ *the* order becomes final.

(b) A person is deemed "confined in" a prison although, at the time of the offense, he *or she* is temporarily outside its walls or bounds for the purpose of serving on a work detail or for the purpose of confinement in a local correctional institution pending trial or for any other purpose for which a prisoner may be allowed temporarily outside the walls or bounds of the prison, but a prisoner who has been released on parole is not deemed "confined in" a prison for purposes of this chapter.

Section 4505 is added to the Penal Code, to read:

4505. (a) Any inmate who commits a felony for the benefit of, at the direction of, or in association with, a criminal street gang, as defined in Section 186.22, shall be sentenced to twice the punishment that is

otherwise prescribed for the felony, unless another provision of law would prescribe a greater penalty.

(b) Any person who provides an inmate with a weapon, cell phone, or other item of contraband that is used in a felony described in subdivision (a) shall be deemed a principal, as defined in Section 31, and be subject to the same penalties as that inmate, even if the person does not specifically intend for the weapon, cell phone, or other item of contraband to be used in the commission of a crime.

SEC. 7. INTENT REGARDING CONFLICTING PENALTIES

It is the intent of the People of the State of California in enacting this measure to strengthen and improve the laws that punish and control perpetrators of gang offenses, firearm offenses, and other specified crimes. It is also the intent of the People of the State of California that if any provision in this act conflicts with any other provision of law that provides for a greater penalty or longer period of imprisonment the latter provision shall apply.

SEC. 8. INTENT REGARDING CHANGES TO THE STEP ACT

(a) The amendments to paragraph (4) of subdivision (b) of Section 186.22 of the Penal Code, to delete the alternative minimum term computations and to include enhancements in the computation of the term, are intended to improve that statute by simplifying the computation procedure for the minimum term of the life sentence. The amendments repealing the alternative minimum term computations in that statute shall not be given any retroactive application, and shall not be construed to benefit any person who committed a crime or received a punishment while those provisions were in effect.

(b) The amendments to subparagraph (B) of paragraph (4) of subdivision (b) of Section 186.22, to delete Section 12022.55 and add Section 12034, are intended to increase the punishment for gang offenses involving shooting from a vehicle. These amendments shall not be given any retroactive application, and shall not be construed to benefit any person who committed a crime or received a punishment while the former version of this provision was in effect.

(c) The amendment to subdivision (g) of Section 186.22, to delete the provision regarding the court striking the punishment for an enhancement, is not intended to affect the court's authority under Section 1385.

SEC. 9. CONDITIONAL RELEASE AND REENTRY

Section 667.21 is added to the Penal Code, to read:

667.21. (a) Notwithstanding any other law, no person charged with a violent felony described in subdivision (c) of Section 667.5 or a gang-related felony in violation of subdivision (a) or (b) of Section 186.22 shall be eligible for bail or be released on his or her own recognizance pending trial, if, at the time of the alleged offense, he or she was illegally within the United States. The sheriff of the county in which the subject is being held shall as soon as practical notify federal Immigration Criminal Enforcement (ICE) of the person's arrest and charges.

(b) This section shall not be construed to authorize the arrest of any person based solely upon his or her alien status or for violation of federal immigration laws.

(c) The sheriff, district attorney, and trial courts of each county shall record the status of any illegal alien charged, booked, or convicted of a felony to be reported to the Department of Justice for inclusion in that person's criminal history (CLETS) so that reimbursement may be sought from the federal government for the cost of incarceration.

Section 1319 of the Penal Code is amended to read:

1319. (a) No person arrested for a violent felony, as described in subdivision (c) of Section 667.5 *or a serious felony, as described in subdivision (c) of Section 1192.7*, may be released on his or her own recognizance until a hearing is held in open court before the magistrate or judge, and until the prosecuting attorney is given notice and a reasonable opportunity to be heard on the matter. In all cases, these

provisions shall be implemented in a manner consistent with the defendant's right to be taken before a magistrate or judge without unreasonable delay pursuant to Section 825.

(b) A defendant charged with a violent felony, as described in subdivision (c) of Section 667.5, shall not be released on his or her own recognizance where it appears, by clear and convincing evidence, that he or she previously has been charged with a felony offense and has willfully and without excuse from the court failed to appear in court as required while that charge was pending. In all other cases, in making the determination as to whether or not to grant release under this section, the court shall consider all of the following:

(1) The existence of any outstanding felony warrants on the defendant.

(2) Any other information presented in the report prepared pursuant to Section 1318.1. The fact that the court has not received the report required by Section 1318.1, at the time of the hearing to decide whether to release the defendant on his or her own recognizance, shall not preclude that release.

(3) Any other information presented by the prosecuting attorney.

(c) The judge or magistrate who, pursuant to this section, grants or denies release on a person's own recognizance, within the time period prescribed in Section 825, shall state the reasons for that decision in the record. This statement shall be included in the court's minutes. The report prepared by the investigative staff pursuant to subdivision (b) of Section 1318.1 shall be placed in the court file for that particular matter.

Section 1319.5 of the Penal Code is amended to read:

1319.5. (a) No person described in subdivision (b) who is arrested for a new offense may be released on his or her own recognizance until a hearing is held in open court before the magistrate or judge.

(b) Subdivision (a) shall apply to the following:

(1) Any person who is currently on felony probation or felony parole.

(2) Any person who has failed to appear in court as ordered, resulting in a warrant being issued, ~~three~~ *two* or more times over the three years preceding the current arrest, except for infractions arising from violations of the Vehicle Code, and who is arrested for any of the following offenses:

(A) Any felony offense.

(B) Any violation of the California Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1).

(C) Any violation of Chapter 9 (commencing with Section 240) of Title 8 of Part 1 (assault and battery).

(D) A violation of Section 484 (theft).

(E) A violation of Section 459 (burglary).

(F) Any offense in which the defendant is alleged to have been armed with or to have personally used a firearm.

Section 3044.5 is added to the Penal Code, to read:

3044.5. (a) The Division of Adult Parole Operations staff shall report to the Board of Parole Hearings any parolee who is reasonably believed to have engaged in the following kinds of behavior:

(1) Any conduct described in subdivision (c) of Section 667.5, or any conduct described in subdivision (c) of Section 1192.7, or any assaultive conduct resulting in serious injury to the victim.

(2) Possession, control, use of, or access to any firearms, explosives or crossbow or possession or any use of weapon as specified in subdivision (a) of Section 12020, or any knife having a blade longer than two inches, except as provided in Section 2512 of Title 15 of the California Code of Regulations.

(3) Involvement in fraudulent schemes involving more than one thousand dollars ($1,000).

(4) Sale, transportation, or distribution of any narcotic or other controlled substances as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(5) A parolee whose whereabouts are unknown and has been unavailable for contact for thirty days.

(6) Any other conduct or pattern of conduct in violation of the conditions of parole deemed sufficiently serious by Division of Adult Parole Operations staff, including repetitive parole violations and escalating criminal conduct.

(7) The refusal to sign any form required by the Department of Justice explaining the duty of the person to register under Section 290.

(8) The failure to provide two blood specimens, a saliva sample, right thumb print impressions, and full palm print impressions of each hand as provided in Sections 295 through 300.3, requiring specified offenders to give samples before release.

(9) The failure to register as provided in Section 290, if the parolee is required to register.

(10) The failure to sign conditions of parole.

(11) Violation of the special condition prohibiting any association with any member of a prison gang, disruptive group, or criminal street gang activity, as enumerated in subdivision (e) of Section 186.22, if such condition was imposed.

(12) Violation of the special condition prohibiting any association with any member of a prison gang, disruptive group or criminal street gang, as defined in subdivision (e) of Section 2513 of Title 15 of the California Code of Regulations, or the wearing or displaying of any gang colors, signs, symbols, or paraphernalia associated with gang activity, if such condition was imposed.

(13) Violation of the special condition requiring compliance with any gang-abatement injunction, ordinance, or court order, if such condition was imposed.

(14) Conduct indicating that the parolee's mental condition has deteriorated such that the parolee is likely to engage in future criminal behavior.

(15) Violation of the residency restrictions set forth in Section 3003.5 for parolees required to register as provided in Section 290.

(b) For any parolee whose commitment offense is described in subdivision (c) of Section 667.5, or subdivision (c) of Section 1192.7, the Division of Adult Parole Operation shall report to the board any parolee whose conduct is reasonably believed to include the following kinds of behavior.

(1) Any behavior listed in subdivision (a).

(2) Any violent, assaultive and or criminal conduct involving firearms.

(3) Any violation of a condition to abstain from alcoholic beverages.

(c) The mandatory reporting requirements enumerated in subdivisions (a) and (b) shall not preclude discretionary reporting of any conduct that the parole agent, unit supervisor, or district administrator feels is sufficiently serious to report, regardless of whether the conduct is being prosecuted in court.

(d) The board, as soon as practicable, shall require that all reports required by this section are transmitted electronically and that reports involving gang, firearm, and violent felonies are given appropriate priority.

Section 5072 is added to the Penal Code, to read:

5072. (a) There is hereby established in the State Treasury the Parolee Reentry Fund for the purpose of funding contracts for parolee mentoring and workforce preparation programs to be awarded by the Secretary of the Department of Corrections and Rehabilitation. Recipients shall be required to have extensive expertise in designing, managing, monitoring and evaluating mentoring, workforce and comprehensive programs specific to parolees, including demonstrated evidence of an effective prisoner reentry program model. For purposes of awarding contracts, contract recipients are required to have extensive related experience working with federal, state, or local government agencies.

(b) The purpose of these programs is to target critical funding to assist and prepare offenders for return to their communities in an effort to reduce recidivism rates and the high costs and threat to public safety associated with the prevalent cycle of incarceration, release, and return to prison. The programs are also intended to provide support, opportunities, mentoring, education and training to offenders on parole. Parameters of the programs shall be as follows:

(1) The programs shall focus on helping parolees make and sustain long-term attachments to the workforce.

(2) The programs shall offer parolees critical support services and referral for housing, addiction, and other services through a case management component. The program will also offer opportunities for positive social support through a mentoring component.

(3) The secretary may authorize programs that employ daily check-in facilities, GPS devices, voiceprints, or other technologies to monitor the daily activities of parolee participants, especially those who are not actively employed or participating in classes.

(c) The sum of twenty million dollars ($20,000,000) is hereby appropriated from the General Fund to the Parolee Reentry Fund for the 2009-2010 fiscal year and annually thereafter, adjusted for cost of living changes pursuant to the California Consumer Price Index.

(d) It is the intent of the People that emphasis be placed upon programs that provide public safety through aggressive supervision of parolees. An offender's conduct during the months immediately following release from prison are of critical importance and generally determine whether he or she will return to custody. Parolees must be subject to conditions that include, at a minimum, the state's right to conduct warrantless searches. Programs that help monitor or assist parolees including GPS, job training, mentoring, and education programs offer substantial promise but cannot be effectively implemented by parole agents who are routinely burdened by caseloads of 100 or more parolees per agent.

(e) Accordingly, the department shall, within six months of the effective date of this act, adopt a public plan designed to recruit and train sufficient parole agents to reduce average caseloads below 50 parolees per agent with lower ratios for sex offenders, gang offenders, and other high control groups. The overall caseload ratio shall be calculated based upon total parolees and total parole agents applying the same definitions and parole periods in place during the 2006-2007 base year. The plan shall be fully implemented no later than December 31, 2010.

SEC. 10. LAW ENFORCEMENT RESOURCES

Section 30061.1 is added to the Government Code, to read:

30061.1. (a) There is hereby created in the State Treasury the Citizens Option for Public Safety Fund (COPS), which may be allocated only for the purposes specified in this section.

(b) The sum of five hundred million dollars ($500,000,000) is hereby appropriated from the General Fund to the COPS Fund for the 2009-2010 fiscal year, and annually each fiscal year thereafter, adjusted for cost of living pursuant to the California Consumer Price Index for the purpose of supporting local public safety, anti-gang and juvenile justice programs.

(c) Of the amount appropriated to the COPS Fund, one-half shall be transferred by the State Controller to local jurisdictions through each county's Supplemental Law Enforcement Services Fund (SLESF) for support of programs authorized by Section 30061 as of July 1, 2007, for the 2009-2010 fiscal year, and annually each fiscal year thereafter.

(d) Of the amount appropriated to the COPS Fund, one-half shall be transferred by the State Controller to the Safe Neighborhood Fund for the 2009-2010 fiscal year, and annually each fiscal year thereafter for public safety, anti-gang, and other programs newly authorized pursuant to Section 30061.15. These funds shall be distributed in accordance with the provisions of this Act.

Section 30061.15 is added to the Government Code, to read:

30061.15. (a) There is hereby created in the State Treasury the Safe Neighborhood Fund. Funds may only be distributed for the purposes specified in this section. All funding in this section shall be distributed according to the pro rata share of population as established annually by the Department of Finance, unless otherwise stated.

(b) The Comprehensive Safe Neighborhood Plan is hereby established to assist local law enforcement and communities throughout the state with a combination of programs that augment local enforcement and early intervention capacity and create regional and statewide anti-gang networks in order to deter crime, as well as enforce the law, as follows:

(1) Twelve percent of the Safe Neighborhood Fund shall be annually allocated by the State Controller to city uniformed law enforcement agencies to be used to target violent, gang, firearm and other street crimes. The funds shall be distributed on a pro rata basis based upon the population of each city as determined by the Department of Finance. The funds allocated to each city shall be used to enhance uniformed law enforcement within the recipient city.

(2) Ten percent of the Safe Neighborhood Fund shall be annually allocated by the State Controller to county district attorneys to support violent felon, gang, and car theft vertical prosecution to be deposited in each county's SLESF. Recipients are encouraged to expend a portion of the funding received pursuant to

this subdivision, not to exceed two percent of a recipient's allocation, for training prosecutors in the effective use of the Street Terrorism Enforcement and Prevention (STEP) Act in gang prosecutions.

(3) Six percent of the Safe Neighborhood Fund shall be annually allocated by the State Controller to the Office of Public Safety Education and Information to support multi-agency, regional gang task forces and for statewide gang enforcement training programs for uniformed police and sheriffs.

(4) Eight percent of the Safe Neighborhood Fund shall be annually allocated to county sheriffs, and mid-sized cities with populations under 300,000 who are not currently eligible for the minimum grant of one hundred thousand dollars ($100,000) under Section 30061, to address enforcement problems common to small, mid-sized, and fast growing communities so that they can more actively participate in county, regional, and statewide enforcement activities and programs to be distributed as follows:

(A) 2.32 percent of the Safe Neighborhood Fund shall be distributed in equal amounts to county sheriffs.

(B) 5.68 percent of the Safe Neighborhood Fund to mid-sized cities, as defined in this paragraph, in pro rata shares based upon each city's population as determined by the Department of Finance.

(5) One percent of the Safe Neighborhood Fund shall be annually allocated by the State Controller to the Office of Public Safety Education and Information for the purpose of distributing to cities that actively enforce civil gang injunctions.

(6) Twenty-six percent of the Safe Neighborhood Fund shall be annually allocated by the State Controller to each participating county probation department according to its pro rata share of the population as follows:

(A) 20 percent of the Safe Neighborhood Fund shall fund county probation programs to alleviate existing probation case loads and to provide intensified supervision for adult offenders on probation.

(B) 6 percent of the Safe Neighborhood Fund shall fund task forces to conduct searches of high-risk probationers to ensure compliance with their conditions of probation. Each participating county shall establish a Developing Increased Safety through Arms Recovery Management (DISARM) Team comprised of the county sheriff, at least one police chief from a city within the county, the district attorney, and the chief probation officer, and shall establish strategies, standards, and procedures to assist probation officers in removing firearms from high-risk probationers by ensuring compliance with their conditions of probation. For purposes of this subdivision, high-risk probationers shall include, but not be limited to, persons with at least one conviction for any of the following crimes:

(i) Assault with a deadly weapon, as defined in Section 245 of the Penal Code.

(ii) Attempted murder, as defined in Section 664 of the Penal Code.

(iii) Homicide, as provided in Chapter 1 (commencing with Section 187) of Title 8 of Part 1 of the Penal Code.

(iv) Robbery, as provided in Sections 211, 212, 213, and 214 of the Penal Code.

(v) Criminal street gang crimes as described in Section 186.22 of the Penal Code.

(7) One percent of the Safe Neighborhood Fund shall be annually allocated by the State Controller to support the California Early Intervention, Rehabilitation, and Accountability Commission authorized pursuant to Section 13921.

(8) Ten percent of the Safe Neighborhood Fund shall be annually allocated by the State Controller to county sheriffs to support the construction and operation of jails to be deposited in each county's SLESF.

(9) Four percent of the Safe Neighborhood Fund shall be annually allocated by the State Controller to the Department of Justice to support the California Witness Protection Program, or any successor program, created pursuant to Section 14020 of the Penal Code.

(10) Two percent of the Safe Neighborhood Fund shall be annually allocated by the State Controller to the Office of Public Safety Education and Information, which shall contract with the Department of Justice or other California enforcement agency to develop and implement a secure statewide gang data warehouse system that shall interface with the current state Cal-Gang database to provide a gang information sharing database system available to local, state and federal law enforcement agencies to better target and prosecute gang crime. After the first year, the Office of Public Safety Education and Information shall allocate two million dollars ($2,000,000) each year to support and maintain this system and three million

dollars ($3,000,000) each year to regional gang informational resource centers to help offset the costs of personnel who will staff these resource centers.

(11)(A) Six percent of the Safe Neighborhood Fund shall be annually allocated by the State Controller to counties for the purchase of Global Positioning System (GPS) tracking equipment to be used for monitoring high-risk individuals including gang offenders, violent offenders, and sex offenders.

(i) Participating counties must submit to the State Controller, no later than May 1st prior to the fiscal year in which funding is sought, a resolution adopted by the county board of supervisors requesting the amount sought to be used by the county sheriff or probation department to purchase and monitor GPS tracking equipment.

(ii) Funds shall be distributed to each participating county based on the sum requested by that county or that county's pro rata share of the total population of all participating counties, which ever is less.

(iii) If the total funds distributed is less than the annual allocation the remainder shall be distributed to participating counties that sought a greater amount on the same basis as the initial distribution until the allocation is exhausted or all county requests have been honored.

(B) The cost of monitoring any offender who is subject to GPS tracking under conditions imposed by the state parole authority shall for the duration of the GPS monitoring period be a state expense. Any requirement that a county or local government monitor such an offender shall constitute a fully reimbursable state mandate.

(12) Four percent of the Safe Neighborhood Fund shall be annually allocated by the State Controller to multi-agency narcotic task forces with an emphasis on those task forces focusing on border interdiction. Eligible task forces (police and sheriffs) may be formed pursuant to this subdivision or may pre-exist, provided that only multi-jurisdictional task forces that do not restrict agency participation or leadership roles shall receive funding.

(13) Six percent of the Safe Neighborhood Fund shall be annually allocated by the State Controller to the Office of Public Safety Education and Information for the purpose of disseminating criminal justice information to the public and administering public safety programs pursuant to Section 14260 of the Penal Code.

(14) Four percent of the Safe Neighborhood Fund shall be annually allocated by the State Controller to the Office of Public Safety Education and Information for the purpose of matching local expenditures to fund law enforcement run, juvenile recreational and community service programs. Any sheriff's department, police department, or regional association of such agencies may apply for grant funding to administer a juvenile recreation program with an emphasis on sports, education, and community service. Eligible programs must be administered by peace officers and require an equal match of local funding or in-kind services. The local match requirement can be met by the value of locally dedicated facilities or officer services or through charitable contributions. Priority shall be given to programs that provide services for at-risk juvenile populations, create alternatives to criminal street gang involvement, and ensure a long-term local commitment. Grants may be made for periods of up to ten years.

Section 30062.1 is added to the Government Code, to read:

30062.1. (a) There is hereby established the Safe Neighborhoods Compliance Enforcement Fund in the State Treasury to augment local government efforts to ensure that occupants of residential housing units paid for by vouchers issued pursuant to Section 8 of the United States Housing Act of 1937 (Section 1437f of Title 42 of the United States Code) comply with the regulations issued pursuant thereto and with the conditions of their publicly-funded tenancies.

(b) The Fund shall be administered by the Office of Public Safety Education and Information (OPSE), which shall match qualified increases in local agency expenditures to enhance regulatory capacity. The objective of this funding is to eliminate public funding of tenancies that are occupied by individuals who are involved in illegal gang, drug, or other criminal activity so that limited public resources can be used to assist law-abiding families in need of safe housing.

(c) There is hereby appropriated from the General Fund to the Safe Neighborhoods Compliance Enforcement Fund ten million dollars ($10,000,000) for the 2009-2010 fiscal year and annually thereafter, adjusted for cost of living changes pursuant to the California Consumer Price Index.

(d) Every governmental agency authorized to enforce compliance with occupancy requirements of vouchers pursuant to Section 8 of the United States Housing Act of 1937 may apply for a matching grant from the Safe Neighborhoods Compliance Enforcement Fund as follows:

(1) No later than March 30, 2009, and each year thereafter, each applicant agency shall submit to the Office of Public Safety Education and Information a request for funding documenting the following in order to be eligible:

(A) The source of the agency's regulating authority.

(B) The amount and source of the local agencies new funding or additional in kind services which shall match in equal dollar amount the grant sought from the Safe Neighborhood Compliance Enforcement Fund.

(C) The additional personnel, equipment, or, compliance enforcement procedures, to be financed by the grant funds.

(D) The number of vouchers pursuant to Section 8 of the United States Housing Act of 1937 issued within the agency's jurisdiction.

(E) The agency's process for ensuring that all occupants of Section 8 tenancies within the agency's jurisdiction are subject to a criminal background check at least once each year.

(2) No funds shall be awarded unless the criteria in paragraph (1) are met.

(e)(1) The Office of Public Safety Education and Information shall on or before June 30, 2009, and each year thereafter, following the deadline for grant applications tabulate the total number of vouchers pursuant to Section 8 of the United States Housing Act of 1937 issued by all of the applicant agencies and shall assign to each agency a numerical factor (percentage) representing its proportionate share of the total number of vouchers pursuant to Section 8 of the United States Housing Act of 1937 issued by all applicant agencies.

(2) Each agency that timely complies with eligibility conditions and the application process shall be issued a fifty percent matching grant up to that percentage of the annual fund appropriation, which equals the agency's proportionate jurisdictional share (numerical factor) of all vouchers pursuant to Section 8 of the United States Housing Act of 1937 as calculated pursuant to subdivision (d).

(3) In the event that available funding is not exhausted pursuant to subdivision (d)(1) the process will be repeated so that each agency that has sought a grant greater in proportion to its percentage of total vouchers calculated pursuant to paragraph (1) shall participate in a second or subsequent pool.

(f) The Office of Public Safety Education and Information may use up to three percent of the total funding for necessary administration of the fund and oversight of recipient programs.

Section 4004.6 is added to the Penal Code, to read:

4004.6. (a) This section applies to any county in which any of the following is true:

(1) The county is subject to federal court orders imposing population caps, or is subject to a self-imposed population cap.

(2) The county is releasing inmates early to avoid overcrowding exceeding 90 percent of jail capacity.

(3) The county has exceeded 90 percent of jail capacity on one or more occasions during each of six consecutive months.

(b) The sheriff of any county described in subdivision (a), or in the case of Madera, Napa, and Santa Clara Counties, the board of supervisors or the Director of Corrections, shall, following a resolution adopted after notice and public hearing by the county board of supervisors, be authorized to employ and operate housing facilities that meet local health and safety codes for residential occupancy, and are deemed secure, as temporary jails or treatment facilities. Nothing in this section shall be construed to authorize the use of noncounty employees to staff temporary jail or treatment facilities. Facilities located within incorporated areas shall in addition require a resolution adopted by the city council.

(1) No inmate shall be housed in a temporary jail or treatment facility for a period exceeding 90 days based on a single sentence.

(2) Determinations regarding the placement of inmates and the security of jail facilities shall be made exclusively by the county sheriff upon consultation with the board of supervisors.

(3) The provisions of this act shall not be construed to limit or preclude any sheriff, or in the case of Madera, Napa, and Santa Clara Counties, the board of supervisors or the Director of Corrections, from

employing lawfully authorized early release, electronic monitoring, or work release programs as necessary.

(4) Notwithstanding any other law or regulation, the use of an emergency jail facility authorized under this section is a discretionary act and shall not form the basis for civil liability on the part of the sheriff, the sheriff's department, or the county or municipality within which the facility located.

(5) Any inmate who escapes from a temporary jail facility or other alternative housing facility shall, in accordance with current law, be in felony violation of Section 4532.

(c) In the event the condition constituting an emergency under this section is remedied and the total population of jail inmates within the subject county remains below 80 percent of permanent authorized capacity for 12 consecutive months the sheriff, or in the case of Madera, Napa, and Santa Clara Counties, the board of supervisors or the Director of Corrections shall, within a reasonable period of time, cease to admit inmates to emergency facilities or bring such facilities into compliance with all applicable laws and regulations for permanent inmate housing.

(d) The population of jail inmates shall, for purposes of this section, include any parole violators held in county jail facilities under contract with California Department of Corrections and Rehabilitation.

Section 14175 of the Penal Code is repealed.

~~14175. This title shall become inoperative on July 1, 2009, and is repealed as of January 1, 2010, unless a later enacted statute, which is enacted before January 1, 2010, deletes or extends that date.~~

Section 14183 of the Penal Code is repealed.

~~14183. This title shall become inoperative on July 1, 2010, and is repealed as of January 1, 2011, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends those dates.~~

SEC. 11. FUNDING OF EXISTING PROGRAMS

The following existing programs shall be funded at or above the level of funding they received in the Budget Act of 2007:

(1) Jail Efficiency Fund as established under Item 9210-105-0001.

(2) California Multi-Jurisdictional Methamphetamine Enforcement Team (CAL-MMET) program under Item 0690-101-0001.

(3) Central Valley Rural Crime Prevention Program established in Chapter 497 of the Statutes of 2005.

(4) Central Coast Rural Crime Prevention Program established in Chapter 18 of the Statutes of 2003.

(5) Juvenile Probation Camp Funding under Item 5225-101-0001, Schedule 1.

SEC. 12. INTENT REGARDING EXISTING PROGRAMS

It is the intent of the People that the adoption of the Safe Neighborhoods Act shall elevate public safety as a statewide priority and limit volatility in the funding of law enforcement and complementary programs of crime deterrence and offender rehabilitation. All too often, short-term economic problems and a multitude of competing interests cause promising programs of deterrence and law enforcement to come to an end or force public safety agencies to work without adequate personnel or equipment. Under the best of circumstances, California police, sheriffs, and correctional officers are faced with much higher caseloads than their counterparts in other parts of the country. Providing our public safety agencies authorization to enforce the law and deter crime is meaningless if these agencies are not provided resources commensurate with their authority. Authorizing additional resources to combat methamphetamine interdiction will prove illusory if the recipient agencies simultaneously lose funding to combat street gangs and firearm violations. Accordingly, this act is designed to protect both new and existing programs and resources and to subject all of the enumerated programs to greater public scrutiny. The objective is to establish a higher commitment to both crime deterrence and enforcement and to sustain that level of commitment.

SEC. 13. EDUCATION FUNDING GUARANTEE

No provision within this act shall be construed to alter the calculation of the minimum state obligations

under Section 8 of Article XVI of the California Constitution, nor diminish the actual state and local support for K-14 schools required by law except as authorized by the Constitution.

SEC. 14. INTENT REGARDING VOTER APPROVED DRUG TREATMENT

No provision of this act shall be construed to change the eligibility of any person to participate in a voter approved drug treatment program.

SEC. 15. NON-SUPPLANTION CLAUSE

The funding authorized and/or made permanent under this act shall supplement and enhance the resources and capacity of public safety agencies and programs throughout California and accordingly the state, or any city, county, city and county, or other political subdivision is prohibited from reducing the level of funding received by any recipient agency or program below that amount received during the higher of the 2007-2008 or the 2008-2009 fiscal year so as to supplant or offset in whole or in part the enhanced level of funding authorized by this act.

SEC. 16. FUNDING FLOOR NOT CEILING

Nothing in this act shall preclude the Legislature from increasing or authorizing public safety appropriations greater than, or in addition to, those approved under this act.

SEC. 17. FUTURE FUNDING CLAUSE

Notwithstanding Government Code Section 13340, any monies allocated and appropriated under this act, that are not encumbered or expended within any applicable period prescribed by law shall, together with the accrued interest on the amount, revert to and remain in the same account for encumbrance and expenditure for the next fiscal period. If any recipient program ceases to require funding authorized under this act or if such funds remain undistributed to eligible agencies for a period of two fiscal years after authorization, those funds shall revert to the General Fund.

SEC. 18. CONFLICTING BALLOT MEASURES

In the event that this measure relating to strengthening our communities by increasing prison sentences on violent offenders and criminal street gang members, or any other measure that reduces criminal penalties or authorizes early release of inmates, is approved by a majority of voters at the same election, and this measure receives a greater number of affirmative votes than any other such measure or measures, this measure shall control in its entirety and conflicting provisions in the said other measure or measures shall be rendered void and without any legal effect. If this measure is approved but does not receive a greater number of affirmative votes than said other measure or measures, this measure shall take effect to the extent permitted by law.

SEC. 19. STATUTORY REFERENCES

Unless otherwise indicated, all statutory references within this act shall be construed to reference the statute as it existed on January 1, 2008.

SEC. 20. SEVERABILITY CLAUSE

If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

SEC. 21. AMENDMENT CLAUSE

The provisions of this act shall not be amended by the Legislature except by a statute passed in each house by roll call vote entered in the journal, three-fourths of the membership of each house concurring, or by a statute that becomes effective only when approved by the voters. However, the Legislature may amend the provisions of this act to expand the scope of their application or to increase punishments or penalties provided herein by a statute passed by majority vote each house thereof.