Assembly Bill No. 1171

Passed the Assembly September 8, 2021

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Chief Clerk of the Assembly

Passed the Senate September 7, 2021

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Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2021, at _____ o'clock ___M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 2236.1, 2966, 10186.1, and 11319.2 of the Business and Professions Code, to amend Sections 1946.7 and 1946.8 of the Civil Code, to amend Sections 1036.2, 1103, and 1107 of the Evidence Code, to amend Sections 3044 and 6930 of the Family Code, to amend Sections 13956 and 53165 of the Government Code, to amend Sections 136.2, 136.7, 209, 261, 261.6, 261.7, 264, 264.1, 264.2, 273.7, 290, 292, 667, 667.5, 667.51, 667.6, 667.61, 667.71, 667.8, 667.9, 679.02, 680, 784.7, 799, 868.5, 1048, 1127e, 1170.12, 1192.5, 1202.1, 1203.055, 1203.06, 1203.066, 1203.067, 1203.075, 1203.08, 1203.09, 1270.1, 1346.1, 1387, 1524.1, 1601, 2933.5, 2962, 3000, 3053.8, 3057, 11105.3, 11160, 12022.3, 12022.53, 12022.8, 12022.85, 13701, 13750, 13837, and 14205 of, and to repeal Section 262 of, the Penal Code, to amend Section 5164 of the Public Resources Code, to amend Section 4467 of the Vehicle Code, and to amend Sections 6500 and 15610.63 of the Welfare and Institutions Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1171, Cristina Garcia. Rape of a spouse.

(1) Existing law defines rape as an act of sexual intercourse accomplished with a person not the spouse of the perpetrator under certain circumstances, including where the victim is incapable of giving legal consent because of a mental disorder or developmental or physical disability, where the victim is not aware of the essential characteristics of the act due to the perpetrator's fraudulent representation that the act serves a professional purpose, and where the victim submits to the act under the belief that the perpetrator is someone known to the victim other than the perpetrator, and the perpetrator intentionally and fraudulently induces that belief.

Existing law separately defines rape of a spouse as an act of sexual intercourse accomplished with the spouse of the perpetrator under similar circumstances as nonspousal rape, except that spousal rape does not include acts of sexual intercourse accomplished under the specific circumstances described above.

This bill would repeal the provisions relating to spousal rape and make conforming changes, thereby making an act of sexual intercourse accomplished with a spouse punishable as rape if the act otherwise meets the definition of rape, except that sexual intercourse with a person who is incapable of giving legal consent because of mental disorder or developmental or physical disability would not be rape if the 2 people are married. By changing the definition of a crime, this bill would impose a state-mandated local program.

(2) Existing law authorizes an employer to request from the Department of Justice records of all convictions or any arrest pending adjudication for specified offenses for a person who applies for a license, employment, or volunteer position, in which the person would have supervisory or disciplinary power over a minor and requires the employer to notify the parent or guardian of a child if a person with specified convictions will have supervisory or disciplinary power over that child. Existing law exempts certain convictions, including spousal rape, from that notification requirement.

This bill would remove the exemption for spousal rape or any other felony conviction and would instead exempt only misdemeanor convictions from that notification.

The bill would make numerous conforming changes.

(3) This bill would incorporate additional changes to Section 1103 of the Evidence Code proposed by AB 939 to be operative only if this bill and AB 939 are enacted and this bill is enacted last.

(4) This bill would incorporate additional changes to Section 3044 of the Family Code proposed by SB 320 and AB 1579 to be operative only if this bill and SB 320, AB 1579, or both, are enacted and this bill is enacted last.

(5) This bill would incorporate additional changes to Section 13956 of the Government Code proposed by SB 299 to be operative only if this bill and SB 299 are enacted and this bill is enacted last.

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

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

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

SECTION 1. Section 2236.1 of the Business and Professions Code is amended to read:

2236.1. (a) A physician and surgeon's certificate shall be suspended automatically during any time that the holder of the certificate is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed. The Division of Medical Quality shall, immediately upon receipt of the certified copy of the record of conviction, determine whether the certificate of the physician and surgeon has been automatically suspended by virtue of the physician and surgeon's incarceration, and if so, the duration of that suspension. The division shall notify the physician and surgeon of the license suspension and of the right to elect to have the issue of penalty heard as provided in this section.

(b) Upon receipt of the certified copy of the record of conviction, if after a hearing it is determined therefrom that the felony of which the licensee was convicted was substantially related to the qualifications, functions, or duties of a physician and surgeon, the Division of Medical Quality shall suspend the license until the time for appeal has elapsed, if an appeal has not been taken, or until the judgment of conviction has been affirmed on appeal or has otherwise become final, and until further order of the division. The issue of substantial relationship shall be heard by an administrative law judge from the Medical Quality Hearing Panel sitting alone or with a panel of the division, in the discretion of the division.

(c) Notwithstanding subdivision (b), a conviction of any crime referred to in Section 2237, or a conviction of Section 187, 261, 288, or former Section 262, of the Penal Code, shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a physician and surgeon and a hearing shall not be held on this issue. Upon its own motion or for good cause shown, the division may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of and confidence in the medical profession.

(d) (1) Discipline may be ordered in accordance with Section 2227, or the Division of Licensing may order the denial of the

license when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw the plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge from the Medical Quality Hearing Panel sitting alone or with a panel of the division, in the discretion of the division. The hearing shall not be had until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence; except that a licensee may, at the licensee's option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee so elects, the issue of penalty shall be heard in the manner described in this section at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of a physician and surgeon. If the conviction of a licensee who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. This subdivision does not prohibit the division from pursuing disciplinary action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in the conviction, including a transcript of the testimony therein, may be received in evidence.

(f) The other provisions of this article setting forth a procedure for the suspension or revocation of a physician and surgeon's certificate shall not apply to proceedings conducted pursuant to this section.

SEC. 2. Section 2966 of the Business and Professions Code is amended to read:

2966. (a) A psychologist's license shall be suspended automatically during any time that the holder of the license is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed. The board shall, immediately upon receipt of the certified copy of the record of conviction, determine whether the license of the psychologist has been automatically suspended by virtue of the psychologist's incarceration, and if so,

the duration of that suspension. The board shall notify the psychologist of the license suspension and of the right to elect to have the issue of penalty heard as provided in this section.

(b) Upon receipt of the certified copy of the record of conviction, if after a hearing it is determined therefrom that the felony of which the licensee was convicted was substantially related to the qualifications, functions, or duties of a psychologist, the board shall suspend the license until the time for appeal has elapsed, if an appeal has not been taken, or until the judgment of conviction has been affirmed on appeal or has otherwise become final, and until further order of the board. The issue of substantial relationship shall be heard by an administrative law judge sitting alone or with a panel of the board, in the discretion of the board.

(c) Notwithstanding subdivision (b), a conviction of any crime referred to in Section 187, 261, 288, or former Section 262, of the Penal Code shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a psychologist and a hearing shall not be held on this issue. Upon its own motion or for good cause shown, the board may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of and confidence in the psychology profession.

(d) (1) Discipline or the denial of the license may be ordered in accordance with Section 2961, or the board may order the denial of the license when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge sitting alone or with a panel of the board, in the discretion of the board. The hearing shall not be commenced until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence; except that a licensee may, at the licensee's option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee so elects, the issue of penalty shall be

heard in the manner described in this section at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of a psychologist. If the conviction of a licensee who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. This subdivision does not prohibit the board from pursuing disciplinary action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in the conviction, including a transcript of the testimony therein, may be received in evidence.

SEC. 3. Section 10186.1 of the Business and Professions Code is amended to read:

10186.1. (a) A license or an endorsement of the department shall be suspended automatically during any time that the licensee is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed. The department shall, immediately upon receipt of the certified copy of the record of conviction, determine whether the license or endorsement has been automatically suspended by virtue of the licensee's incarceration, and if so, the duration of that suspension. The department shall notify the licensee of the suspension and of the right to elect to have the issue of penalty heard as provided in subdivision (d).

(b) If after a hearing before an administrative law judge from the Office of Administrative Hearings it is determined that the felony for which the licensee was convicted was substantially related to the qualifications, functions, or duties of a licensee, the commissioner upon receipt of the certified copy of the record of conviction, shall suspend the license or endorsement until the time for appeal has elapsed, if an appeal has not been taken, or until the judgment of conviction has been affirmed on appeal or has otherwise become final, and until further order of the department.

(c) Notwithstanding subdivision (b), a conviction of a charge of violating any federal statute or regulation or any statute or regulation of this state regulating dangerous drugs or controlled substances, or a conviction of Section 187, 261, 288, or former Section 262, of the Penal Code, shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a licensee and a hearing shall not be held on this issue. However, upon its own motion or for good cause shown, the commissioner

may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of, and confidence in, the practice regulated by the department.

(d) (1) Discipline may be ordered against a licensee in accordance with the laws and regulations of the department when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge from the Office of Administrative Hearings. The hearing shall not be held until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence, except that a licensee may, at the licensee's option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee so elects, the issue of penalty shall be heard in the manner described in subdivision (b) at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of a licensee. If the conviction of a licensee who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. This subdivision does not prohibit the department from pursuing disciplinary action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in a conviction, including a transcript of the testimony in those proceedings, may be received in evidence.

(f) Any other law setting forth a procedure for the suspension or revocation of a license or endorsement issued by the department shall not apply to proceedings conducted pursuant to this section.

SEC. 4. Section 11319.2 of the Business and Professions Code is amended to read:

11319.2. (a) A license of a licensee or a certificate of a registrant shall be suspended automatically during any time that the licensee or registrant is incarcerated after conviction of a felony,

regardless of whether the conviction has been appealed. The office shall, immediately upon receipt of the certified copy of the record of conviction, determine whether the license of the licensee or certificate of the registrant has been automatically suspended by virtue of the licensee's or registrant's incarceration, and if so, the duration of that suspension. The office shall notify the licensee or registrant in writing of the license or certificate suspension and of the right to elect to have the issue of penalty heard as provided in subdivision (d).

(b) If after a hearing before an administrative law judge from the Office of Administrative Hearings it is determined that the felony for which the licensee or registrant was convicted was substantially related to the qualifications, functions, or duties of a licensee or registrant, the director upon receipt of the certified copy of the record of conviction, shall suspend the license or certificate until the time for appeal has elapsed, if an appeal has not been taken, or until the judgment of conviction has been affirmed on appeal or has otherwise become final, and until further order of the director.

(c) Notwithstanding subdivision (b), a conviction of a charge of violating any federal statute or regulation or any statute or regulation of this state regulating dangerous drugs or controlled substances, or a conviction of Section 187, 261, 288, or former Section 262, of the Penal Code, shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a licensee or registrant and a hearing shall not be held on this issue. However, upon its own motion or for good cause shown, the director may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of, and confidence in, the practice regulated by the office.

(d) (1) Discipline may be ordered against a licensee or registrant in accordance with the laws and regulations of the office when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge from the Office of Administrative Hearings. The hearing shall not be had until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence, except that a licensee or registrant may, at the licensee's or registrant's option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee or registrant so elects, the issue of penalty shall be heard in the manner described in subdivision (b) at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of a licensee or registrant. If the conviction of a licensee or registrant who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. This subdivision does not prohibit the office from pursuing disciplinary action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in a conviction, including a transcript of the testimony in those proceedings, may be received in evidence.

(f) Any other law setting forth a procedure for the suspension or revocation of a license or certificate issued by the office shall not apply to proceedings conducted pursuant to this section.

SEC. 5. Section 1946.7 of the Civil Code, as amended by Section 1 of Chapter 205 of the Statutes of 2020, is amended to read:

1946.7. (a) A tenant may notify the landlord that the tenant intends to terminate the tenancy if the tenant, a household member, or an immediate family member was the victim of an act that constitutes any of the following:

(1) Domestic violence as defined in Section 6211 of the Family Code.

(2) Sexual assault as defined in Section 261, 261.5, 286, 287, or 289 of the Penal Code.

(3) Stalking as defined in Section 1708.7.

(4) Human trafficking as defined in Section 236.1 of the Penal Code.

(5) Abuse of an elder or a dependent adult as defined in Section 15610.07 of the Welfare and Institutions Code.

(6) A crime that caused bodily injury or death.

(7) A crime that included the exhibition, drawing, brandishing, or use of a firearm or other deadly weapon or instrument.

(8) A crime that included the use of force against the victim or a threat of force against the victim.

(b) A notice to terminate a tenancy under this section shall be in writing, with one of the following attached to the notice:

(1) A copy of a temporary restraining order, emergency protective order, or protective order lawfully issued pursuant to Part 3 (commencing with Section 6240) or Part 4 (commencing with Section 6300) of Division 10 of the Family Code, Section 136.2 of the Penal Code, Section 527.6 of the Code of Civil Procedure, or Section 213.5 or 15657.03 of the Welfare and Institutions Code that protects the tenant, household member, or immediate family member from further domestic violence, sexual assault, stalking, human trafficking, abuse of an elder or a dependent adult, or any act or crime listed in subdivision (a).

(2) A copy of a written report by a peace officer employed by a state or local law enforcement agency acting in the peace officer's official capacity stating that the tenant, household member, or immediate family member has filed a report alleging that the tenant, the household member, or the immediate family member is a victim of an act or crime listed in subdivision (a).

(3) (A) Documentation from a qualified third party based on information received by that third party while acting in the third party's professional capacity to indicate that the tenant, household member, or immediate family member is seeking assistance for physical or mental injuries or abuse resulting from an act or crime listed in subdivision (a).

(B) The documentation shall contain, in substantially the same form, the following:

Tenant Statement and Qualified Third Party Statement under Civil Code Section 1946.7

Part I. Statement By Tenant

I, [insert name of tenant], state as follows:

I, or a member of my household or immediate family, have been a victim of:

[insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, dependent adult abuse, or a crime that caused bodily injury or death, a crime that included the exhibition, drawing, brandishing, or use of a firearm or other deadly weapon or instrument, or a crime that included the use of force against the victim or a threat of force against the victim.]

The most recent incident(s) happened on or about:
[insert date or dates.]

The incident(s) was/were committed by the following person(s), with these physical description(s), if known and safe to provide:
[if known and safe to provide, insert name(s) and physical description(s).]

_____ _____
(signature of tenant) (date)

Part II. Qualified Third Party Statement

I, [insert name of qualified third party], state as follows:

My business address and phone number are:
[insert business address and phone number.]

Check and complete one of the following:
____I meet the requirements for a sexual assault counselor provided in Section 1035.2 of the Evidence Code and I am either engaged in an office, hospital, institution, or center commonly known as a rape crisis center described in that section or employed by an organization providing the programs specified in Section 13835.2 of the Penal Code.
____I meet the requirements for a domestic violence counselor provided in Section 1037.1 of the Evidence Code and I am employed, whether financially compensated or not, by a domestic violence victim service organization, as defined in that section.
____I meet the requirements for a human trafficking caseworker provided in Section 1038.2 of the Evidence Code and I am employed, whether financially compensated or not, by an organization that provides programs specified in Section 18294 of the Welfare and Institutions Code or in Section 13835.2 of the Penal Code.

____I meet the definition of "victim of violent crime advocate" provided in Section 1947.6 of the Civil Code and I am employed, whether financially compensated or not, by a reputable agency or organization that has a documented record of providing services to victims of violent crime or provides those services under the auspices or supervision of a court or a law enforcement or prosecution agency.
____I am licensed by the State of California as a:
[insert one of the following: physician and surgeon, osteopathic physician and surgeon, registered nurse, psychiatrist, psychologist, licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor.] and I am licensed by, and my license number is:
[insert name of state licensing entity and license number.]

The person who signed the Statement By Tenant above stated to me that the person, or a member of the person's household or immediate family, is a victim of:
[insert one or more of the following: domestic violence, sexual assault, stalking, human trafficking, elder abuse, dependent adult abuse, or a crime that caused physical injury, emotional injury and the threat of physical injury, or death.]
The person further stated to me the incident(s) occurred on or about the date(s) stated above.

I understand that the person who made the Statement By Tenant may use this document as a basis for terminating a lease with the person's landlord.

_____ _____
(signature of qualified third party) (date)

(C) The documentation may be signed by a person who meets the requirements for a sexual assault counselor, domestic violence counselor, a human trafficking caseworker, or a victim of violent crime advocate only if the documentation displays the letterhead of the office, hospital, institution, center, or organization, as appropriate, that engages or employs, whether financially compensated or not, this counselor, caseworker, or advocate.

(4) Any other form of documentation that reasonably verifies that the crime or act listed in subdivision (a) occurred.

(c) If the tenant is terminating tenancy pursuant to subdivision (a) because an immediate family member is a victim of an eligible act or crime listed in subdivision (a) and that tenant did not live in the same household as the immediate family member at the time of the act or crime, and no part of the act or crime occurred within the dwelling unit or within 1,000 feet of the dwelling unit of the tenant, the tenant shall attach to the notice and other documentation required by subdivision (b) a written statement stating all of the following:

(1) The tenant's immediate family member was a victim of an act or crime listed in subdivision (a).

(2) The tenant intends to relocate as a result of the tenant's immediate family member being a victim of an act or crime listed in subdivision (a).

(3) The tenant is relocating to increase the safety, physical well-being, emotional well-being, psychological well-being, or financial security of the tenant or of the tenant's immediate family member as a result of the act or crime.

(d) The notice to terminate the tenancy shall be given within 180 days of the date that any order described in paragraph (1) of subdivision (b) was issued, within 180 days of the date that any written report described in paragraph (2) of subdivision (b) was made, within 180 days of the date that a crime described in paragraph (6), (7), or (8) of subdivision (a) occurred, or within the time period described in Section 1946.

(e) If notice to terminate the tenancy is provided to the landlord under this section, the tenant shall be responsible for payment of rent for no more than 14 calendar days following the giving of the notice, or for any shorter appropriate period as described in Section 1946 or the lease or rental agreement. The tenant shall be released from any rent payment obligation under the lease or rental agreement without penalty. If the premises are relet to another party prior to the end of the obligation to pay rent, the rent owed under this subdivision shall be prorated.

(f) Notwithstanding any law, a landlord shall not require a tenant who terminates a lease or rental agreement pursuant to this section to forfeit any security deposit money or advance rent paid due to that termination. A tenant who terminates a rental agreement pursuant to this section shall not be considered for any purpose,

by reason of the termination, to have breached the lease or rental agreement. Existing law governing the security deposit shall apply.

(g) This section does not relieve a tenant, other than the tenant who is, or who has a household member or immediate family member who is, a victim of an act or crime listed in subdivision (a) and members of that tenant's household, from their obligations under the lease or rental agreement.

(h) For purposes of this section, the following definitions apply:

(1) "Household member" means a member of the tenant's family who lives in the same household as the tenant.

(2) "Health practitioner" means a physician and surgeon, osteopathic physician and surgeon, psychiatrist, psychologist, registered nurse, licensed clinical social worker, licensed marriage and family therapist, or licensed professional clinical counselor.

(3) "Immediate family member" means the parent, stepparent, spouse, child, child-in-law, stepchild, or sibling of the tenant, or any person living in the tenant's household at the time the crime or act listed in subdivision (a) occurred who has a relationship with the tenant that is substantially similar to that of a family member.

(4) "Qualified third party" means a health practitioner, domestic violence counselor, as defined in Section 1037.1 of the Evidence Code, a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, or a human trafficking caseworker, as defined in Section 1038.2 of the Evidence Code.

(5) "Victim of violent crime advocate" means a person who is employed, whether financially compensated or not, for the purpose of rendering advice or assistance to victims of violent crimes for a reputable agency or organization that has a documented record of providing services to victims of violent crime or provides those services under the auspices or supervision of a court or a law enforcement or prosecution agency.

(i) (1) A landlord shall not disclose any information provided by a tenant under this section to a third party unless the disclosure satisfies any one of the following:

(A) The tenant consents in writing to the disclosure.

(B) The disclosure is required by law or order of the court.

(2) A landlord's communication to a qualified third party who provides documentation under paragraph (3) of subdivision (b) to

verify the contents of that documentation is not disclosure for purposes of this subdivision.

(j) An owner or an owner's agent shall not refuse to rent a dwelling unit to an otherwise qualified prospective tenant or refuse to continue to rent to an existing tenant solely on the basis that the tenant has previously exercised the tenant's rights under this section or has previously terminated a tenancy because of the circumstances described in subdivision (a).

SEC. 6. Section 1946.8 of the Civil Code is amended to read:

1946.8. (a) For purposes of this section:

(1) "Individual in an emergency" means a person who believes that immediate action is required to prevent or mitigate the loss or impairment of life, health, or property.

(2) "Occupant" means a person residing in a dwelling unit with the tenant. "Occupant" includes lodgers as defined in Section 1946.5.

(3) "Penalties" means the following:

(A) The actual or threatened assessment of fees, fines, or penalties.

(B) The actual or threatened termination of a tenancy or the actual or threatened failure to renew a tenancy.

(C) Subjecting a tenant to inferior terms, privileges, and conditions of tenancy in comparison to tenants who have not sought law enforcement assistance or emergency assistance.

(4) "Resident" means a member of the tenant's household or any other occupant living in the dwelling unit with the consent of the tenant.

(5) "Victim of abuse" includes:

(A) A victim of domestic violence as defined in Section 6211 of the Family Code.

(B) A victim of elder or dependent adult abuse as defined in Section 15610.07 of the Welfare and Institutions Code.

(C) A victim of human trafficking as described in Section 236.1 of the Penal Code.

(D) A victim of sexual assault, meaning a victim of any act made punishable by Section 261, 264.1, 285, 286, 288, 288a, or 289 of the Penal Code.

(E) A victim of stalking as described in Section 1708.7 of this code or Section 646.9 of the Penal Code.

(6) "Victim of crime" means any victim of a misdemeanor or felony.

(b) Any provision in a rental or lease agreement for a dwelling unit that prohibits or limits, or threatens to prohibit or limit, a tenant's, resident's, or other person's right to summon law enforcement assistance or emergency assistance as, or on behalf of, a victim of abuse, a victim of crime, or an individual in an emergency, if the tenant, resident, or other person believes that the law enforcement assistance or emergency assistance is necessary to prevent or address the perpetration, escalation, or exacerbation of the abuse, crime, or emergency, shall be void as contrary to public policy.

(c) A landlord shall not impose, or threaten to impose, penalties on a tenant or resident who exercises the tenant's or resident's right to summon law enforcement assistance or emergency assistance as, or on behalf of, a victim of abuse, a victim of crime, or an individual in an emergency, based on the person's belief that the assistance is necessary, as described in subdivision (b). A landlord shall not impose, or threaten to impose, penalties on a tenant or resident as a consequence of a person who is not a resident or tenant summoning law enforcement assistance or emergency assistance on the tenant's, resident's, or other person's behalf, based on the person's belief that the assistance is necessary.

(d) Documentation is not required to establish belief for purposes of subdivision (b) or (c), but belief may be established by documents such as those described in Section 1161.3 of the Code of Civil Procedure.

(e) Any waiver of the provisions of this section is contrary to public policy and is void and unenforceable.

(f) (1) In an action for unlawful detainer, a tenant, resident, or occupant may raise, as an affirmative defense, that the landlord or owner violated this section.

(2) There is a rebuttable presumption that a tenant, resident, or occupant has established an affirmative defense under this subdivision if the landlord or owner files a complaint for unlawful detainer within 30 days of a resident, tenant, or other person summoning law enforcement assistance or emergency assistance and the complaint is based upon a notice that alleges that the act of summoning law enforcement assistance or emergency assistance as, or on behalf of, a victim of abuse, a victim of crime, or an

individual in an emergency constitutes a rental agreement violation, lease violation, or a nuisance. A reference to a person summoning law enforcement in a notice that is the basis for a complaint for unlawful detainer that is necessary to describe conduct that is alleged to constitute a violation of a rental agreement or lease is not, in itself, an allegation for purposes of this paragraph.

(3) A landlord or owner may rebut the presumption described in paragraph (2) by demonstrating that a reason other than the summoning of law enforcement or emergency assistance as, or on behalf of, a victim of abuse, a victim of crime, or an individual in an emergency was a substantial motivating factor for filing the complaint.

(g) In addition to other remedies provided by law, a violation of this section entitles a tenant, a resident, or other aggrieved person to seek injunctive relief prohibiting the landlord from creating or enforcing policies in violation of this section, or from imposing or threatening to impose penalties against the tenant, resident, or other aggrieved person based on summoning law enforcement or emergency assistance as, or on behalf of, a victim of abuse, a victim of crime, or an individual in an emergency.

(h) This section does not permit an injunction to be entered that would prohibit the filing of an unlawful detainer action.

(i) This section does not limit a landlord's exercise of the landlord's other rights under a lease or rental agreement, or under other law pertaining to the hiring of property, with regard to matters that are not addressed by this section.

SEC. 7. Section 1036.2 of the Evidence Code is amended to read:

1036.2. As used in this article, "sexual assault" includes all of the following:

(a) Rape, as defined in Section 261 of the Penal Code.

(b) Unlawful sexual intercourse, as defined in Section 261.5 of the Penal Code.

(c) Rape in concert with force and violence, as defined in Section 264.1 of the Penal Code.

(d) Sodomy, as defined in Section 286 of the Penal Code, except a violation of subdivision (e) of that section.

(e) A violation of Section 288 of the Penal Code.

(f) Oral copulation, as defined in Section 287 of, or former Section 288a of, the Penal Code, except a violation of subdivision (e) of those sections.

(g) Sexual penetration, as defined in Section 289 of the Penal Code.

(h) Annoying or molesting a child under 18 years of age, as defined in Section 647a of the Penal Code.

(i) Any attempt to commit any of the acts listed in this section.

SEC. 8. Section 1103 of the Evidence Code is amended to read:

1103. (a) In a criminal action, evidence of the character or a trait of character (in the form of an opinion, evidence of reputation, or evidence of specific instances of conduct) of the victim of the crime for which the defendant is being prosecuted is not made inadmissible by Section 1101 if the evidence is:

(1) Offered by the defendant to prove conduct of the victim in conformity with the character or trait of character.

(2) Offered by the prosecution to rebut evidence adduced by the defendant under paragraph (1).

(b) In a criminal action, evidence of the defendant's character for violence or trait of character for violence (in the form of an opinion, evidence of reputation, or evidence of specific instances of conduct) is not made inadmissible by Section 1101 if the evidence is offered by the prosecution to prove conduct of the defendant in conformity with the character or trait of character and is offered after evidence that the victim had a character for violence or a trait of character tending to show violence has been adduced by the defendant under paragraph (1) of subdivision (a).

(c) (1) Notwithstanding any other provision of this code to the contrary, and except as provided in this subdivision, in any prosecution under Section 261 or 264.1 of the Penal Code, or under Section 286, 287, or 289 of, or former Section 288a of, the Penal Code, or for assault with intent to commit, attempt to commit, or conspiracy to commit a crime defined in any of those sections, except where the crime is alleged to have occurred in a local detention facility, as defined in Section 6031.4, or in a state prison, as defined in Section 4504, opinion evidence, reputation evidence, and evidence of specific instances of the complaining witness' sexual conduct, or any of that evidence, is not admissible by the defendant in order to prove consent by the complaining witness.

(2) Notwithstanding paragraph (3), evidence of the manner in which the victim was dressed at the time of the commission of the offense is not admissible when offered by either party on the issue of consent in any prosecution for an offense specified in paragraph (1), unless the evidence is determined by the court to be relevant and admissible in the interests of justice. The proponent of the evidence shall make an offer of proof outside the hearing of the jury. The court shall then make its determination and at that time, state the reasons for its ruling on the record. For the purposes of this paragraph, "manner of dress" does not include the condition of the victim's clothing before, during, or after the commission of the offense.

(3) Paragraph (1) does not apply to evidence of the complaining witness' sexual conduct with the defendant.

(4) If the prosecutor introduces evidence, including testimony of a witness, or the complaining witness as a witness gives testimony, and that evidence or testimony relates to the complaining witness' sexual conduct, the defendant may cross-examine the witness who gives the testimony and offer relevant evidence limited specifically to the rebuttal of the evidence introduced by the prosecutor or given by the complaining witness.

(5) This subdivision does not make inadmissible any evidence offered to attack the credibility of the complaining witness as provided in Section 782.

(6) As used in this subdivision, "complaining witness" means the alleged victim of the crime charged, the prosecution of which is subject to this subdivision.

SEC. 8.1. Section 1103 of the Evidence Code is amended to read:

1103. (a) In a criminal action, evidence of the character or a trait of character (in the form of an opinion, evidence of reputation, or evidence of specific instances of conduct) of the victim of the crime for which the defendant is being prosecuted is not made inadmissible by Section 1101 if the evidence is:

(1) Offered by the defendant to prove conduct of the victim in conformity with the character or trait of character.

(2) Offered by the prosecution to rebut evidence adduced by the defendant under paragraph (1).

(b) In a criminal action, evidence of the defendant's character for violence or trait of character for violence (in the form of an

opinion, evidence of reputation, or evidence of specific instances of conduct) is not made inadmissible by Section 1101 if the evidence is offered by the prosecution to prove conduct of the defendant in conformity with the character or trait of character and is offered after evidence that the victim had a character for violence or a trait of character tending to show violence has been adduced by the defendant under paragraph (1) of subdivision (a).

(c) (1) Notwithstanding any other provision of this code to the contrary, and except as provided in this subdivision, in any prosecution under Section 261 or 264.1 of the Penal Code, or under Section 286, 287, or 289 of, or former Section 288a of, the Penal Code, or for assault with intent to commit, attempt to commit, or conspiracy to commit a crime defined in any of those sections, except where the crime is alleged to have occurred in a local detention facility, as defined in Section 6031.4, or in a state prison, as defined in Section 4504, opinion evidence, reputation evidence, and evidence of specific instances of the complaining witness' sexual conduct, or any of that evidence, is not admissible by the defendant in order to prove consent by the complaining witness.

(2) Notwithstanding paragraph (3), evidence of the manner in which the victim was dressed at the time of the commission of the offense is not admissible when offered by either party on the issue of consent in any prosecution for an offense specified in paragraph (1). For the purposes of this paragraph, "manner of dress" does not include the condition of the victim's clothing before, during, or after the commission of the offense.

(3) Paragraph (1) does not apply to evidence of the complaining witness' sexual conduct with the defendant.

(4) If the prosecutor introduces evidence, including testimony of a witness, or the complaining witness as a witness gives testimony, and that evidence or testimony relates to the complaining witness' sexual conduct, the defendant may cross-examine the witness who gives the testimony and offer relevant evidence limited specifically to the rebuttal of the evidence introduced by the prosecutor or given by the complaining witness.

(5) This subdivision does not make inadmissible any evidence offered to attack the credibility of the complaining witness as provided in Section 782.

(6) As used in this subdivision, "complaining witness" means the alleged victim of the crime charged, the prosecution of which is subject to this subdivision.

SEC. 9. Section 1107 of the Evidence Code is amended to read:

1107. (a) In a criminal action, expert testimony is admissible by either the prosecution or the defense regarding intimate partner battering and its effects, including the nature and effect of physical, emotional, or mental abuse on the beliefs, perceptions, or behavior of victims of domestic violence, except when offered against a criminal defendant to prove the occurrence of the act or acts of abuse which form the basis of the criminal charge.

(b) The foundation shall be sufficient for admission of this expert testimony if the proponent of the evidence establishes its relevancy and the proper qualifications of the expert witness. Expert opinion testimony on intimate partner battering and its effects shall not be considered a new scientific technique whose reliability is unproven.

(c) For purposes of this section, "abuse" is defined in Section 6203 of the Family Code, and "domestic violence" is defined in Section 6211 of the Family Code and may include acts defined in Section 242, subdivision (e) of Section 243, Section 261, 273.5, 273.6, 422, or 653m of the Penal Code.

(d) This section is intended as a rule of evidence only and no substantive change affecting the Penal Code is intended.

(e) This section shall be known, and may be cited, as the Expert Witness Testimony on Intimate Partner Battering and Its Effects Section of the Evidence Code.

(f) The changes in this section that become effective on January 1, 2005, are not intended to impact any existing decisional law regarding this section, and that decisional law should apply equally to this section as it refers to "intimate partner battering and its effects" in place of "battered women's syndrome."

SEC. 10. Section 3044 of the Family Code is amended to read:

3044. (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child's siblings, or against any person in subparagraph (C) of paragraph (1) of subdivision (b) of Section 3011 with whom the party has a relationship, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic

violence is detrimental to the best interest of the child, pursuant to Sections 3011 and 3020. This presumption may only be rebutted by a preponderance of the evidence.

(b) To overcome the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.

(1) The perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child pursuant to Sections 3011 and 3020. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Additional factors:

(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

(C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

(D) The perpetrator is on probation or parole, and has or has not complied with the terms and conditions of probation or parole.

(E) The perpetrator is restrained by a protective order or restraining order, and has or has not complied with its terms and conditions.

(F) The perpetrator of domestic violence has committed further acts of domestic violence.

(c) For purposes of this section, a person has "perpetrated domestic violence" when the person is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may

issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 273.5, 422, or 646.9 of, or former Section 262 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in Jaime G. v. H.L. (2018) 25 Cal.App.5th 794, which requires that the court, in determining that the presumption in subdivision (a) has been overcome, make specific findings on each of the factors in subdivision (b).

(2) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in Section 3020.

(g) In an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order

complies with Section 3011, including, but not limited to, subdivision (e), and Section 3020.

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to custody mediation in the case.

SEC. 10.1. Section 3044 of the Family Code is amended to read:

3044. (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child's siblings, or against any person in subparagraph (C) of paragraph (1) of subdivision (b) of Section 3011 with whom the party has a relationship, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Sections 3011 and 3020. This presumption may only be rebutted by a preponderance of the evidence.

(b) To overcome the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.

(1) The perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child pursuant to Sections 3011 and 3020. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Additional factors:

(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

(C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

(D) The perpetrator is on probation or parole, and has or has not complied with the terms and conditions of probation or parole.

(E) The perpetrator is restrained by a protective order or restraining order, and has or has not complied with its terms and conditions.

(F) The perpetrator of domestic violence has committed further acts of domestic violence.

(G) The court has determined, pursuant to Section 6322.5, that the perpetrator is a restrained person in possession or control of a firearm or ammunition in violation of Section 6389.

(c) For purposes of this section, a person has "perpetrated domestic violence" when the person is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 273.5, 422, or 646.9 of, or former Section 262 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on

conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in Jaime G. v. H.L. (2018) 25 Cal.App.5th 794, which requires that the court, in determining that the presumption in subdivision (a) has been overcome, make specific findings on each of the factors in subdivision (b).

(2) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in Section 3020.

(g) In an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order complies with Section 3011, including, but not limited to, subdivision (e), and Section 3020.

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to custody mediation in the case.

SEC. 10.2. Section 3044 of the Family Code is amended to read:

3044. (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child's siblings, or against a person in subparagraph (A) of paragraph (2) of subdivision (a) of Section 3011 with whom the party has a relationship, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Sections 3011 and 3020. This presumption may only be rebutted by a preponderance of the evidence.

(b) To overcome the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.

(1) The perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child pursuant to Sections 3011 and 3020. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Additional factors:

(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

(C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

(D) The perpetrator is on probation or parole, and has or has not complied with the terms and conditions of probation or parole.

(E) The perpetrator is restrained by a protective order or restraining order, and has or has not complied with its terms and conditions.

(F) The perpetrator of domestic violence has committed further acts of domestic violence.

(c) For purposes of this section, a person has "perpetrated domestic violence" when the person is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 273.5, 422, or 646.9 of, or former Section 262 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in Jaime G. v. H.L. (2018) 25 Cal.App.5th 794, which requires that the court, in determining that the presumption in subdivision (a) has been overcome, make specific findings on each of the factors in subdivision (b).

(2) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in Section 3020.

(g) In an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order complies with Sections 3011 and 3020.

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence

in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to custody mediation in the case.

SEC. 10.3. Section 3044 of the Family Code is amended to read:

3044. (a) Upon a finding by the court that a party seeking custody of a child has perpetrated domestic violence within the previous five years against the other party seeking custody of the child, or against the child or the child's siblings, or against a person in subparagraph (A) of paragraph (2) of subdivision (a) of Section 3011 with whom the party has a relationship, there is a rebuttable presumption that an award of sole or joint physical or legal custody of a child to a person who has perpetrated domestic violence is detrimental to the best interest of the child, pursuant to Sections 3011 and 3020. This presumption may only be rebutted by a preponderance of the evidence.

(b) To overcome the presumption set forth in subdivision (a), the court shall find that paragraph (1) is satisfied and shall find that the factors in paragraph (2), on balance, support the legislative findings in Section 3020.

(1) The perpetrator of domestic violence has demonstrated that giving sole or joint physical or legal custody of a child to the perpetrator is in the best interest of the child pursuant to Sections 3011 and 3020. In determining the best interest of the child, the preference for frequent and continuing contact with both parents, as set forth in subdivision (b) of Section 3020, or with the noncustodial parent, as set forth in paragraph (1) of subdivision (a) of Section 3040, may not be used to rebut the presumption, in whole or in part.

(2) Additional factors:

(A) The perpetrator has successfully completed a batterer's treatment program that meets the criteria outlined in subdivision (c) of Section 1203.097 of the Penal Code.

(B) The perpetrator has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.

(C) The perpetrator has successfully completed a parenting class, if the court determines the class to be appropriate.

(D) The perpetrator is on probation or parole, and has or has not complied with the terms and conditions of probation or parole.

(E) The perpetrator is restrained by a protective order or restraining order, and has or has not complied with its terms and conditions.

(F) The perpetrator of domestic violence has committed further acts of domestic violence.

(G) The court has determined, pursuant to Section 6322.5, that the perpetrator is a restrained person in possession or control of a firearm or ammunition in violation of Section 6389.

(c) For purposes of this section, a person has "perpetrated domestic violence" when the person is found by the court to have intentionally or recklessly caused or attempted to cause bodily injury, or sexual assault, or to have placed a person in reasonable apprehension of imminent serious bodily injury to that person or to another, or to have engaged in behavior involving, but not limited to, threatening, striking, harassing, destroying personal property, or disturbing the peace of another, for which a court may issue an ex parte order pursuant to Section 6320 to protect the other party seeking custody of the child or to protect the child and the child's siblings.

(d) (1) For purposes of this section, the requirement of a finding by the court shall be satisfied by, among other things, and not limited to, evidence that a party seeking custody has been convicted within the previous five years, after a trial or a plea of guilty or no contest, of a crime against the other party that comes within the definition of domestic violence contained in Section 6211 and of abuse contained in Section 6203, including, but not limited to, a crime described in subdivision (e) of Section 243 of, or Section 261, 273.5, 422, or 646.9 of, or former Section 262 of, the Penal Code.

(2) The requirement of a finding by the court shall also be satisfied if a court, whether that court hears or has heard the child custody proceedings or not, has made a finding pursuant to subdivision (a) based on conduct occurring within the previous five years.

(e) When a court makes a finding that a party has perpetrated domestic violence, the court may not base its findings solely on conclusions reached by a child custody evaluator or on the recommendation of the Family Court Services staff, but shall consider any relevant, admissible evidence submitted by the parties.

(f) (1) It is the intent of the Legislature that this subdivision be interpreted consistently with the decision in Jaime G. v. H.L. (2018) 25 Cal.App.5th 794, which requires that the court, in determining that the presumption in subdivision (a) has been overcome, make specific findings on each of the factors in subdivision (b).

(2) If the court determines that the presumption in subdivision (a) has been overcome, the court shall state its reasons in writing or on the record as to why paragraph (1) of subdivision (b) is satisfied and why the factors in paragraph (2) of subdivision (b), on balance, support the legislative findings in Section 3020.

(g) In an evidentiary hearing or trial in which custody orders are sought and where there has been an allegation of domestic violence, the court shall make a determination as to whether this section applies prior to issuing a custody order, unless the court finds that a continuance is necessary to determine whether this section applies, in which case the court may issue a temporary custody order for a reasonable period of time, provided the order complies with Sections 3011 and 3020.

(h) In a custody or restraining order proceeding in which a party has alleged that the other party has perpetrated domestic violence in accordance with the terms of this section, the court shall inform the parties of the existence of this section and shall give them a copy of this section prior to custody mediation in the case.

SEC. 11. Section 6930 of the Family Code is amended to read:

6930. (a) A minor who is 12 years of age or older and who states that the minor is injured as a result of intimate partner violence may consent to medical care related to the diagnosis or treatment of the injury and the collection of medical evidence with regard to the alleged intimate partner violence.

(b) (1) For purposes of this section, "intimate partner violence" means an intentional or reckless infliction of bodily harm that is perpetrated by a person with whom the minor has or has had a sexual, dating, or spousal relationship.

(2) This section does not apply when a minor is an alleged victim of rape, as defined in Section 261 of the Penal Code, in which case Section 6927 shall apply, and does not apply when a minor is alleged to have been sexually assaulted, as described in Section 6928, in which case that section shall apply.

(c) If the health practitioner providing treatment believes that the injuries described in subdivision (a) require a report pursuant

to Section 11160 of the Penal Code, the health practitioner shall do both of the following:

(1) Inform the minor that the report will be made.

(2) Attempt to contact the minor's parent or guardian and inform them of the report. The health practitioner shall note in the minor's treatment record the date and time of the attempt to contact the parent or guardian and whether the attempt was successful or unsuccessful. This paragraph does not apply if the health practitioner reasonably believes that the minor's parent or guardian committed the intimate partner violence on the minor.

SEC. 12. Section 13956 of the Government Code is amended to read:

13956. Notwithstanding Section 13955, a person shall not be eligible for compensation under the following conditions:

(a) An application may be denied, in whole or in part, if the board finds that denial is appropriate because of the nature of the victim's or other applicant's involvement in the events leading to the crime, or the involvement of the person whose injury or death gives rise to the application.

(1) Factors that may be considered in determining whether the victim or derivative victim was involved in the events leading to the qualifying crime include, but are not limited to:

(A) The victim or derivative victim initiated the qualifying crime, or provoked or aggravated the suspect into initiating the qualifying crime.

(B) The qualifying crime was a reasonably foreseeable consequence of the conduct of the victim or derivative victim.

(C) The victim or derivative victim was committing a crime that could be charged as a felony and reasonably lead to the victim being victimized. However, committing a crime shall not be considered involvement if the victim's injury or death occurred as a direct result of a crime committed in violation of Section 261, 273.5, or former Section 262 of, or for a crime of unlawful sexual intercourse with a minor in violation of subdivision (d) of Section 261.5 of, the Penal Code.

(2) If the victim is determined to have been involved in the events leading to the qualifying crime, factors that may be considered to mitigate or overcome involvement include, but are not limited to:

(A) The victim's injuries were significantly more serious than reasonably could have been expected based on the victim's level of involvement.

(B) A third party interfered in a manner not reasonably foreseeable by the victim or derivative victim.

(C) The board shall consider the victim's age, physical condition, and psychological state, as well as any compelling health and safety concerns, in determining whether the application should be denied pursuant to this section. The application of a derivative victim of domestic violence under 18 years of age or derivative victim of trafficking under 18 years of age shall not be denied on the basis of the denial of the victim's application under this subdivision.

(b) (1) An application shall be denied if the board finds that the victim or, if compensation is sought by, or on behalf of, a derivative victim, either the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime. In determining whether cooperation has been reasonable, the board shall consider the victim's or derivative victim's age, physical condition, and psychological state, cultural or linguistic barriers, any compelling health and safety concerns, including, but not limited to, a reasonable fear of retaliation or harm that would jeopardize the well-being of the victim or the victim's family or the derivative victim or the derivative victim's family, and giving due consideration to the degree of cooperation of which the victim or derivative victim is capable in light of the presence of any of these factors. A victim of domestic violence shall not be determined to have failed to cooperate based on the victim's conduct with law enforcement at the scene of the crime. Lack of cooperation shall also not be found solely because a victim of sexual assault, domestic violence, or human trafficking delayed reporting the qualifying crime.

(2) An application for a claim based on domestic violence shall not be denied solely because a police report was not made by the victim. The board shall adopt guidelines that allow the board to consider and approve applications for assistance based on domestic violence relying upon evidence other than a police report to establish that a domestic violence crime has occurred. Factors evidencing that a domestic violence crime has occurred may

include, but are not limited to, medical records documenting injuries consistent with allegations of domestic violence, mental health records, or that the victim has obtained a permanent restraining order.

(3) An application for a claim based on a sexual assault shall not be denied solely because a police report was not made by the victim. The board shall adopt guidelines that allow it to consider and approve applications for assistance based on a sexual assault relying upon evidence other than a police report to establish that a sexual assault crime has occurred. Factors evidencing that a sexual assault crime has occurred may include, but are not limited to, medical records documenting injuries consistent with allegations of sexual assault, mental health records, or that the victim received a sexual assault examination.

(4) An application for a claim based on human trafficking as defined in Section 236.1 of the Penal Code shall not be denied solely because a police report was not made by the victim. The board shall adopt guidelines that allow the board to consider and approve applications for assistance based on human trafficking relying upon evidence other than a police report to establish that a human trafficking crime has occurred. That evidence may include any reliable corroborating information approved by the board, including, but not limited to, the following:

(A) A Law Enforcement Agency Endorsement issued pursuant to Section 236.5 of the Penal Code.

(B) A human trafficking caseworker, as identified in Section 1038.2 of the Evidence Code, has attested by affidavit that the individual was a victim of human trafficking.

(5) (A) An application for a claim by a military personnel victim based on a sexual assault by another military personnel shall not be denied solely because it was not reported to a superior officer or law enforcement at the time of the crime.

(B) Factors that the board shall consider for purposes of determining if a claim qualifies for compensation include, but are not limited to, the evidence of the following:

(i) Restricted or unrestricted reports to a military victim advocate, sexual assault response coordinator, chaplain, attorney, or other military personnel.

(ii) Medical or physical evidence consistent with sexual assault.

(iii) A written or oral report from military law enforcement or a civilian law enforcement agency concluding that a sexual assault crime was committed against the victim.

(iv) A letter or other written statement from a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, licensed therapist, or mental health counselor, stating that the victim is seeking services related to the allegation of sexual assault.

(v) A credible witness to whom the victim disclosed the details that a sexual assault crime occurred.

(vi) A restraining order from a military or civilian court against the perpetrator of the sexual assault.

(vii) Other behavior by the victim consistent with sexual assault.

(C) For purposes of this subdivision, the sexual assault at issue shall have occurred during military service, including deployment.

(D) For purposes of this subdivision, the sexual assault may have been committed off base.

(E) For purposes of this subdivision, a "perpetrator" means an individual who is any of the following at the time of the sexual assault:

(i) An active duty military personnel from the United States Army, Navy, Marine Corps, Air Force, or Coast Guard.

(ii) A civilian employee of any military branch specified in clause (i), military base, or military deployment.

(iii) A contractor or agent of a private military or private security company.

(iv) A member of the California National Guard.

(F) For purposes of this subdivision, "sexual assault" means an offense included in Section 261, 264.1, 286, 287, formerly 288a, or Section 289 of the Penal Code, as of January 1, 2015.

(c) (1) Notwithstanding Section 13955, a person who is convicted of a violent felony listed in subdivision (c) of Section 667.5 of the Penal Code shall not be granted compensation until that person has been discharged from probation or has been released from a correctional institution and has been discharged from parole, or has been discharged from postrelease community supervision or mandatory supervision, if any, for that violent crime. Compensation shall not be granted to an applicant pursuant to this chapter during any period of time the applicant is held in a correctional institution or while an applicant is required to register as a sex offender pursuant to Section 290 of the Penal Code.

(2) A person who has been convicted of a violent felony listed in subdivision (c) of Section 667.5 of the Penal Code may apply for compensation pursuant to this chapter at any time, but the award of that compensation may not be considered until the applicant meets the requirements for compensation set forth in paragraph (1).

SEC. 12.1. Section 13956 of the Government Code is amended to read:

13956. Notwithstanding Section 13955, a person shall not be eligible for compensation under the following conditions:

(a) An application may be denied, in whole or in part, if the board finds that denial is appropriate because of the nature of the victim's or other applicant's involvement in the events leading to the crime, or the involvement of the person whose injury or death gives rise to the application.

(1) Factors that may be considered in determining whether the victim or derivative victim was involved in the events leading to the qualifying crime include, but are not limited to:

(A) The victim or derivative victim initiated the qualifying crime, or provoked or aggravated the suspect into initiating the qualifying crime.

(B) The qualifying crime was a reasonably foreseeable consequence of the conduct of the victim or derivative victim.

(C) The victim or derivative victim was committing a crime that could be charged as a felony and reasonably lead to the victim being victimized. However, committing a crime shall not be considered involvement if the victim's injury or death occurred as a direct result of a crime committed in violation of Section 261, 273.5, or former Section 262 of, or for a crime of unlawful sexual intercourse with a minor in violation of subdivision (d) of Section 261.5 of, the Penal Code.

(2) If the victim is determined to have been involved in the events leading to the qualifying crime, factors that may be considered to mitigate or overcome involvement include, but are not limited to:

(A) The victim's injuries were significantly more serious than reasonably could have been expected based on the victim's level of involvement.

(B) A third party interfered in a manner not reasonably foreseeable by the victim or derivative victim.

(C) The board shall consider the victim's age, physical condition, and psychological state, as well as any compelling health and safety concerns, in determining whether the application should be denied pursuant to this section. The application of a derivative victim of domestic violence under 18 years of age or derivative victim of trafficking under 18 years of age shall not be denied on the basis of the denial of the victim's application under this subdivision.

(3) Notwithstanding paragraphs (1) and (2), and except as provided in paragraphs (4) and (5), for a claim based on a victim's serious bodily injury or death that resulted from a law enforcement officer's use of force, as provided in Section 13951, the board shall not deny the application based on the victim's or other applicant's involvement in the qualifying crime that gave rise to the claim.

(4) Notwithstanding paragraph (3), for a claim based on a victim's serious bodily injury that resulted from a law enforcement officer's use of force, as provided in Section 13951, the board may deny the application based on the victim's involvement if the victim is convicted of a violent crime as defined in Section 667.5 of the Penal Code, or of a crime that resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to or death of another person, and the crime occurred at the time and location of the incident on which the claim is based. The board shall not consider a claim for compensation while charges are pending alleging that a victim subject to this paragraph committed such a crime. A victim or applicant subject to this paragraph may apply for compensation pursuant to this chapter at any time for any expense, but the award of that compensation shall not be granted until the charges are no longer pending against the victim. If the victim is deceased, charges shall not be considered pending against the victim for the purposes of this paragraph.

(5) Notwithstanding paragraphs (3) and (6), for a claim based on a victim's death that resulted from a law enforcement officer's use of force, as provided in Section 13951, the board may deny an application based on the victim's involvement in the qualifying crime that gave rise to the claim if there is clear and convincing evidence that the deceased victim committed a crime during which the deceased victim personally inflicted serious bodily injury, as defined in Section 243 of the Penal Code, on another person or

personally killed another person at the time and location of the incident on which the claim is based.

(6) Notwithstanding paragraphs (1) and (2), and except as provided in paragraph (5), for a claim based on a victim's death as a result of a crime, the board shall not deny the application, in whole or in part, based on the deceased victim's involvement in the crime that gave rise to the claim.

(b) (1) An application shall be denied if the board finds that the victim or, if compensation is sought by, or on behalf of, a derivative victim, either the victim or derivative victim failed to cooperate reasonably with a law enforcement agency in the apprehension and conviction of a criminal committing the crime. In determining whether cooperation has been reasonable, the board shall consider the victim's or derivative victim's age, physical condition, and psychological state, cultural or linguistic barriers, any compelling health and safety concerns, including, but not limited to, a reasonable fear of retaliation or harm that would jeopardize the well-being of the victim or the victim's family or the derivative victim or the derivative victim's family, and giving due consideration to the degree of cooperation of which the victim or derivative victim is capable in light of the presence of any of these factors. A victim of domestic violence shall not be determined to have failed to cooperate based on the victim's conduct with law enforcement at the scene of the crime. Lack of cooperation shall also not be found solely because a victim of sexual assault, domestic violence, or human trafficking delayed reporting the qualifying crime.

(2) Notwithstanding paragraph (1), for a claim based on a victim's serious bodily injury or death that resulted from a law enforcement officer's use of force, as provided in Section 13951, the board shall not deny the application based on the victim's failure to cooperate.

(3) Notwithstanding paragraph (1), for a claim based on a victim's death as a result of a crime, the board shall not deny the application based on a victim's or derivative victim's failure to cooperate.

(4) An application for a claim based on domestic violence shall not be denied solely because a police report was not made by the victim. The board shall adopt guidelines that allow the board to consider and approve applications for assistance based on domestic

violence relying upon evidence other than a police report to establish that a domestic violence crime has occurred. Factors evidencing that a domestic violence crime has occurred may include, but are not limited to, medical records documenting injuries consistent with allegations of domestic violence, mental health records, or that the victim has obtained a permanent restraining order.

(5) An application for a claim based on a sexual assault shall not be denied solely because a police report was not made by the victim. The board shall adopt guidelines that allow it to consider and approve applications for assistance based on a sexual assault relying upon evidence other than a police report to establish that a sexual assault crime has occurred. Factors evidencing that a sexual assault crime has occurred may include, but are not limited to, medical records documenting injuries consistent with allegations of sexual assault, mental health records, or that the victim received a sexual assault examination.

(6) An application for a claim based on human trafficking as defined in Section 236.1 of the Penal Code shall not be denied solely because a police report was not made by the victim. The board shall adopt guidelines that allow the board to consider and approve applications for assistance based on human trafficking relying upon evidence other than a police report to establish that a human trafficking crime has occurred. That evidence may include any reliable corroborating information approved by the board, including, but not limited to, the following:

(A) A law enforcement agency endorsement issued pursuant to Section 236.5 of the Penal Code.

(B) A human trafficking caseworker, as identified in Section 1038.2 of the Evidence Code, has attested by affidavit that the individual was a victim of human trafficking.

(7) (A) An application for a claim by a military personnel victim based on a sexual assault by another military personnel shall not be denied solely because it was not reported to a superior officer or law enforcement at the time of the crime.

(B) Factors that the board shall consider for purposes of determining if a claim qualifies for compensation include, but are not limited to, the evidence of the following:

(i) Restricted or unrestricted reports to a military victim advocate, sexual assault response coordinator, chaplain, attorney, or other military personnel.

(ii) Medical or physical evidence consistent with sexual assault.

(iii) A written or oral report from military law enforcement or a civilian law enforcement agency concluding that a sexual assault crime was committed against the victim.

(iv) A letter or other written statement from a sexual assault counselor, as defined in Section 1035.2 of the Evidence Code, licensed therapist, or mental health counselor, stating that the victim is seeking services related to the allegation of sexual assault.

(v) A credible witness to whom the victim disclosed the details that a sexual assault crime occurred.

(vi) A restraining order from a military or civilian court against the perpetrator of the sexual assault.

(vii) Other behavior by the victim consistent with sexual assault.

(C) For purposes of this subdivision, the sexual assault at issue shall have occurred during military service, including deployment.

(D) For purposes of this subdivision, the sexual assault may have been committed off base.

(E) For purposes of this subdivision, a "perpetrator" means an individual who is any of the following at the time of the sexual assault:

(i) An active duty military personnel from the United States Army, Navy, Marine Corps, Air Force, or Coast Guard.

(ii) A civilian employee of any military branch specified in clause (i), military base, or military deployment.

(iii) A contractor or agent of a private military or private security company.

(iv) A member of the California National Guard.

(F) For purposes of this subdivision, "sexual assault" means an offense included in Section 261, 264.1, 286, 287, formerly 288a, or Section 289 of the Penal Code, as of January 1, 2015.

(c) Notwithstanding any provision of this section, for applications based on a victim's serious bodily injury or death that resulted from a law enforcement officer's use of force as provided in Section 13951, the board shall not deny an application, in whole or in part, based solely upon the contents of a police report, or because a police report was not made, or based on whether any suspect was arrested or charged with the crime that gave rise to

the claim. The board shall consider other evidence to establish that a qualifying crime occurred. Factors evidencing that a qualifying crime occurred may include, but are not limited to, all of the following:

(1) Medical records documenting injuries consistent with the allegation of the qualifying crime.

(2) A written statement from a victim services provider stating that the victim is seeking services related to the qualifying crime.

(3) A permanent restraining order or protective order issued by a court to protect or separate the victim or derivative victim from the person who is responsible for the qualifying crime.

(4) A statement from a licensed medical provider, physician's assistant, nurse practitioner, or other person licensed to provide medical or mental health care documenting that the victim experienced physical, mental, or emotional injury as a result of the qualifying crime.

(5) A written or oral report from a law enforcement agency stating that a qualifying crime was committed against the victim.

(6) Evidence that the qualifying crime was reported under Section 12525.2 to the Department of Justice as an incident in which the use of force by a law enforcement officer against a civilian resulted in serious bodily injury or death.

(d) A person making a statement or report regarding a qualifying crime under paragraph (2), (4), or (5) of subdivision (c) may consider any information or evidence they deem relevant.

(e) (1) Notwithstanding Section 13955, a person who is convicted of a violent felony listed in subdivision (c) of Section 667.5 of the Penal Code shall not be granted compensation until that person has been discharged from probation or has been released from a correctional institution and has been discharged from parole, or has been discharged from postrelease community supervision or mandatory supervision, if any, for that violent crime. Compensation shall not be granted to an applicant pursuant to this chapter during any period of time the applicant is held in a correctional institution or while an applicant is required to register as a sex offender pursuant to Section 290 of the Penal Code.

(2) A person who has been convicted of a violent felony listed in subdivision (c) of Section 667.5 of the Penal Code may apply for compensation pursuant to this chapter at any time, but the award of that compensation may not be considered until the applicant

meets the requirements for compensation set forth in paragraph (1).

SEC. 13. Section 53165 of the Government Code is amended to read:

53165. (a) For purposes of this section:

(1) "Individual in an emergency" means a person who believes that immediate action is required to prevent or mitigate the loss or impairment of life, health, or property.

(2) "Local agency" means a county, city, whether general law or chartered, city and county, town, housing authority, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or other local public agency.

(3) "Occupant" means a person residing in a dwelling unit with the tenant. "Occupant" includes a lodger as defined in Section 1946.5 of the Civil Code.

(4) "Penalty" means the following:

(A) The actual or threatened assessment of fees, fines, or penalties.

(B) The actual or threatened termination of a tenancy or the actual or threatened failure to renew a tenancy.

(C) The actual or threatened revocation, suspension, or nonrenewal of a rental certificate, license, or permit.

(D) The designation or threatened designation as a nuisance property or as a perpetrator of criminal activity under local law, or imposition or threatened imposition of a similar designation.

(E) Subjecting a tenant to inferior terms, privileges, and conditions of tenancy in comparison to tenants who have not sought law enforcement assistance or emergency assistance.

(5) "Resident" means a member of the tenant's household or any other occupant living in the dwelling unit with the consent of the tenant.

(6) "Tenant" means tenant, subtenant, lessee, or sublessee.

(7) "Victim of abuse" includes:

(A) A victim of domestic violence as defined in Section 6211 of the Family Code.

(B) A victim of elder or dependent adult abuse as defined in Section 15610.07 of the Welfare and Institutions Code.

(C) A victim of human trafficking as described in Section 236.1 of the Penal Code.

(D) A victim of sexual assault means a victim of any act made punishable by Section 261, 264.1, 285, 286, 288, 288a, or 289 of the Penal Code.

(E) A victim of stalking as described in Section 1708.7 of the Civil Code or Section 646.9 of the Penal Code.

(8) "Victim of crime" means a victim of a misdemeanor or felony.

(b) A local agency shall not promulgate, enforce, or implement any ordinance, rule, policy, or regulation, that authorizes, or requires the imposition, or threatened imposition, of a penalty against a resident, owner, tenant, landlord, or other person as a consequence of law enforcement assistance or emergency assistance being summoned by, or on behalf of, a victim of abuse, a victim of crime, or an individual in an emergency.

(c) If a local agency violates this section, a resident, tenant, owner, landlord, or other person may obtain the following:

(1) A court order requiring the local agency to cease and desist the unlawful practice.

(2) A court order rendering null and void any ordinance, rule, policy, or regulation that violates this section.

(3) Other equitable relief as the court may deem appropriate.

(d) This section preempts any local ordinance, rule, policy, or regulation insofar as it is inconsistent with this section, irrespective of the effective date of the ordinance, rule, policy, or regulation.

SEC. 14. Section 136.2 of the Penal Code is amended to read:

136.2. (a) (1) Upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur, a court with jurisdiction over a criminal matter may issue orders, including, but not limited to, the following:

(A) An order issued pursuant to Section 6320 of the Family Code.

(B) An order that a defendant shall not violate any provision of Section 136.1.

(C) An order that a person before the court other than a defendant, including, but not limited to, a subpoenaed witness or other person entering the courtroom of the court, shall not violate any provision of Section 136.1.

(D) An order that a person described in this section shall have no communication whatsoever with a specified witness or a victim,

except through an attorney under reasonable restrictions that the court may impose.

(E) An order calling for a hearing to determine if an order described in subparagraphs (A) to (D), inclusive, should be issued.

(F) (i) An order that a particular law enforcement agency within the jurisdiction of the court provide protection for a victim, witness, or both, or for immediate family members of a victim or a witness who reside in the same household as the victim or witness or within reasonable proximity of the victim's or witness' household, as determined by the court. The order shall not be made without the consent of the law enforcement agency except for limited and specified periods of time and upon an express finding by the court of a clear and present danger of harm to the victim or witness or immediate family members of the victim or witness.

(ii) For purposes of this paragraph, "immediate family members" include the spouse, children, or parents of the victim or witness.

(G) (i) An order protecting a victim or witness of violent crime from all contact by the defendant, or contact, with the intent to annoy, harass, threaten, or commit acts of violence, by the defendant. The court or its designee shall transmit orders made under this paragraph to law enforcement personnel within one business day of the issuance, modification, extension, or termination of the order, pursuant to subdivision (a) of Section 6380 of the Family Code. It is the responsibility of the court to transmit the modification, extension, or termination orders made under this paragraph to the same agency that entered the original protective order into the California Restraining and Protective Order System.

(ii) (I) If a court does not issue an order pursuant to clause (i) when the defendant is charged with a crime involving domestic violence as defined in Section 13700 of this code or in Section 6211 of the Family Code, the court, on its own motion, shall consider issuing a protective order upon a good cause belief that harm to, or intimidation or dissuasion of, a victim or witness has occurred or is reasonably likely to occur, that provides as follows:

(ia) The defendant shall not own, possess, purchase, receive, or attempt to purchase or receive, a firearm while the protective order is in effect.

(ib) The defendant shall relinquish ownership or possession of any firearms, pursuant to Section 527.9 of the Code of Civil Procedure.

(II) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive, a firearm while this protective order is in effect is punishable pursuant to Section 29825.

(iii) An order issued, modified, extended, or terminated by a court pursuant to this subparagraph shall be issued on forms adopted by the Judicial Council of California that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(iv) A protective order issued under this subparagraph may require the defendant to be placed on electronic monitoring if the local government, with the concurrence of the county sheriff or the chief probation officer with jurisdiction, adopts a policy to authorize electronic monitoring of defendants and specifies the agency with jurisdiction for this purpose. If the court determines that the defendant has the ability to pay for the monitoring program, the court shall order the defendant to pay for the monitoring. If the court determines that the defendant does not have the ability to pay for the electronic monitoring, the court may order electronic monitoring to be paid for by the local government that adopted the policy to authorize electronic monitoring. The duration of electronic monitoring shall not exceed one year from the date the order is issued. The electronic monitoring shall not be in place if the protective order is not in place.

(2) For purposes of this subdivision, a minor who was not a victim of, but who was physically present at the time of, an act of domestic violence, is a witness and is deemed to have suffered harm within the meaning of paragraph (1).

(b) A person violating an order made pursuant to subparagraphs (A) to (G), inclusive, of paragraph (1) of subdivision (a) may be punished for any substantive offense described in Section 136.1, or for a contempt of the court making the order. A finding of contempt shall not be a bar to prosecution for a violation of Section 136.1. However, a person held in contempt shall be entitled to

credit for punishment imposed therein against a sentence imposed upon conviction of an offense described in Section 136.1. A conviction or acquittal for a substantive offense under Section 136.1 shall be a bar to a subsequent punishment for contempt arising out of the same act.

(c) (1) (A) Notwithstanding subdivision (e), an emergency protective order issued pursuant to Chapter 2 (commencing with Section 6250) of Part 3 of Division 10 of the Family Code or Section 646.91 shall have precedence in enforcement over any other restraining or protective order, provided the emergency protective order meets all of the following requirements:

(i) The emergency protective order is issued to protect one or more individuals who are already protected persons under another restraining or protective order.

(ii) The emergency protective order restrains the individual who is the restrained person in the other restraining or protective order specified in clause (i).

(iii) The provisions of the emergency protective order are more restrictive in relation to the restrained person than are the provisions of the other restraining or protective order specified in clause (i).

(B) An emergency protective order that meets the requirements of subparagraph (A) shall have precedence in enforcement over the provisions of any other restraining or protective order only with respect to those provisions of the emergency protective order that are more restrictive in relation to the restrained person.

(2) Except as described in paragraph (1), a no-contact order, as described in Section 6320 of the Family Code, shall have precedence in enforcement over any other restraining or protective order.

(d) (1) A person subject to a protective order issued under this section shall not own, possess, purchase, or receive, or attempt to purchase or receive, a firearm while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish ownership or possession of any firearms, pursuant to Section 527.9 of the Code of Civil Procedure.

(3) A person who owns, possesses, purchases, or receives, or attempts to purchase or receive, a firearm while the protective order is in effect is punishable pursuant to Section 29825.

(e) (1) When the defendant is charged with a crime involving domestic violence, as defined in Section 13700 of this code or in Section 6211 of the Family Code, or a violation of Section 261, 261.5, or former Section 262, or a crime that requires the defendant to register pursuant to subdivision (c) of Section 290, the court shall consider issuing the above-described orders on its own motion. All interested parties shall receive a copy of those orders. In order to facilitate this, the court's records of all criminal cases involving domestic violence or a violation of Section 261, 261.5, or former Section 262, or a crime that requires the defendant to register pursuant to subdivision (c) of Section 290, shall be marked to clearly alert the court to this issue.

(2) When a complaint, information, or indictment charging a crime involving domestic violence, as defined in Section 13700 or in Section 6211 of the Family Code, or a violation of Section 261, 261.5, or former Section 262, or a crime that requires the defendant to register pursuant to subdivision (c) of Section 290, has been issued, except as described in subdivision (c), a restraining order or protective order against the defendant issued by the criminal court in that case has precedence in enforcement over a civil court order against the defendant.

(3) Custody and visitation with respect to the defendant and the defendant's minor children may be ordered by a family or juvenile court consistent with the protocol established pursuant to subdivision (f), but if ordered after a criminal protective order has been issued pursuant to this section, the custody and visitation order shall make reference to, and, if there is not an emergency protective order that has precedence in enforcement pursuant to paragraph (1) of subdivision (c), or a no-contact order, as described in Section 6320 of the Family Code, acknowledge the precedence of enforcement of, an appropriate criminal protective order. On or before July 1, 2014, the Judicial Council shall modify the criminal and civil court forms consistent with this subdivision.

(f) On or before January 1, 2003, the Judicial Council shall promulgate a protocol, for adoption by each local court in substantially similar terms, to provide for the timely coordination of all orders against the same defendant and in favor of the same named victim or victims. The protocol shall include, but shall not be limited to, mechanisms for ensuring appropriate communication and information sharing between criminal, family, and juvenile

courts concerning orders and cases that involve the same parties, and shall permit a family or juvenile court order to coexist with a criminal court protective order subject to the following conditions:

(1) An order that permits contact between the restrained person and the person's children shall provide for the safe exchange of the children and shall not contain language, either printed or handwritten, that violates a "no-contact order" issued by a criminal court.

(2) The safety of all parties shall be the courts' paramount concern. The family or juvenile court shall specify the time, day, place, and manner of transfer of the child, as provided in Section 3100 of the Family Code.

(g) On or before January 1, 2003, the Judicial Council shall modify the criminal and civil court protective order forms consistent with this section.

(h) (1) When a complaint, information, or indictment charging a crime involving domestic violence, as defined in Section 13700 or in Section 6211 of the Family Code, has been filed, the court may consider, in determining whether good cause exists to issue an order under subparagraph (A) of paragraph (1) of subdivision (a), the underlying nature of the offense charged, and the information provided to the court pursuant to Section 273.75.

(2) When a complaint, information, or indictment charging a violation of Section 261, 261.5, or former Section 262, or a crime that requires the defendant to register pursuant to subdivision (c) of Section 290, has been filed, the court may consider, in determining whether good cause exists to issue an order under paragraph (1) of subdivision (a), the underlying nature of the offense charged, the defendant's relationship to the victim, the likelihood of continuing harm to the victim, any current restraining order or protective order issued by a civil or criminal court involving the defendant, and the defendant's criminal history, including, but not limited to, prior convictions for a violation of Section 261, 261.5, or former Section 262, a crime that requires the defendant to register pursuant to subdivision (c) of Section 290, any other forms of violence, or a weapons offense.

(i) (1) When a criminal defendant has been convicted of a crime involving domestic violence as defined in Section 13700 or in Section 6211 of the Family Code, a violation of subdivision (a) of Section 236.1, Section 261, 261.5, former Section 262, subdivision

(a) of Section 266h, or subdivision (a) of Section 266i, a violation of Section 186.22, or a crime that requires the defendant to register pursuant to subdivision (c) of Section 290, the court, at the time of sentencing, shall consider issuing an order restraining the defendant from any contact with a victim of the crime. The order may be valid for up to 10 years, as determined by the court. This protective order may be issued by the court regardless of whether the defendant is sentenced to the state prison or a county jail or subject to mandatory supervision, or whether imposition of sentence is suspended and the defendant is placed on probation. It is the intent of the Legislature in enacting this subdivision that the duration of a restraining order issued by the court be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of a victim and the victim's immediate family.

(2) When a criminal defendant has been convicted of a crime involving domestic violence as defined in Section 13700 or in Section 6211 of the Family Code, a violation of Section 261, 261.5, or former Section 262, a violation of Section 186.22, or a crime that requires the defendant to register pursuant to subdivision (c) of Section 290, the court, at the time of sentencing, shall consider issuing an order restraining the defendant from any contact with a percipient witness to the crime if it can be established by clear and convincing evidence that the witness has been harassed, as defined in paragraph (3) of subdivision (b) of Section 527.6 of the Code of Civil Procedure, by the defendant.

(3) An order under this subdivision may include provisions for electronic monitoring if the local government, upon receiving the concurrence of the county sheriff or the chief probation officer with jurisdiction, adopts a policy authorizing electronic monitoring of defendants and specifies the agency with jurisdiction for this purpose. If the court determines that the defendant has the ability to pay for the monitoring program, the court shall order the defendant to pay for the monitoring. If the court determines that the defendant does not have the ability to pay for the electronic monitoring, the court may order the electronic monitoring to be paid for by the local government that adopted the policy authorizing electronic monitoring. The duration of the electronic monitoring shall not exceed one year from the date the order is issued.

(j) For purposes of this section, "local government" means the county that has jurisdiction over the protective order.

SEC. 15. Section 136.7 of the Penal Code is amended to read:

136.7. (a) Every person imprisoned in a county jail or the state prison who has been convicted of a sexual offense, including, but not limited to, a violation of Section 243.4, 261, 261.5, 264.1, 266, 266a, 266b, 266c, 266f, 285, 286, 287, 288, or 289, or former Section 262 or 288a, who knowingly reveals the name and address of a witness or victim to that offense to any other prisoner with the intent that the other prisoner will intimidate or harass the witness or victim through the initiation of unauthorized correspondence with the witness or victim, is guilty of a public offense, punishable by imprisonment in the county jail not to exceed one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(b) This section shall not prevent the interviewing of witnesses.

SEC. 16. Section 209 of the Penal Code is amended to read:

209. (a) A person who seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps, or carries away another person by any means whatsoever with intent to hold or detain, or who holds or detains, that person for ransom, reward, or to commit extortion or to exact from another person any money or valuable thing, or a person who aids or abets any such act, is guilty of a felony. When a person subjected to that act suffers death or bodily harm, or is intentionally confined in a manner that exposes that person to a substantial likelihood of death, the person, upon conviction, shall be punished by imprisonment in the state prison for life without possibility of parole. When no person subjected to that act suffers death or bodily harm, the person, upon conviction, shall be punished by imprisonment in the state prison for life with the possibility of parole.

(b) (1) A person who kidnaps or carries away an individual to commit robbery, rape, oral copulation, sodomy, or any violation of Section 264.1, 288, 289, or former Section 262, shall be punished by imprisonment in the state prison for life with the possibility of parole.

(2) This subdivision shall only apply if the movement of the victim is beyond that merely incidental to the commission of, and increases the risk of harm to the victim over and above that necessarily present in, the intended underlying offense.

(c) When probation is granted, the court shall, except in unusual cases where the interests of justice would best be served by a lesser penalty, require as a condition of the probation that the person be confined in the county jail for 12 months. If the court grants probation without requiring the defendant to be confined in the county jail for 12 months, it shall specify its reason or reasons for imposing a lesser penalty.

(d) Subdivision (b) does not supersede or affect Section 667.61. A person may be charged with a violation of subdivision (b) and Section 667.61. However, a person may not be punished under subdivision (b) and Section 667.61 for the same act that constitutes a violation of both subdivision (b) and Section 667.61.

SEC. 17. Section 261 of the Penal Code is amended to read:

261. (a) Rape is an act of sexual intercourse accomplished under any of the following circumstances:

(1) If a person who is not the spouse of the person committing the act is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving consent. This paragraph does not preclude the prosecution of a spouse committing the act from being prosecuted under any other paragraph of this subdivision or any other law.

(2) If it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.

(3) If a person is prevented from resisting by an intoxicating or anesthetic substance, or a controlled substance, and this condition was known, or reasonably should have been known by the accused.

(4) If a person is at the time unconscious of the nature of the act, and this is known to the accused. As used in this paragraph, "unconscious of the nature of the act" means incapable of resisting because the victim meets any one of the following conditions:

(A) Was unconscious or asleep.

(B) Was not aware, knowing, perceiving, or cognizant that the act occurred.

(C) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraud in fact.

(D) Was not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.

(5) If a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

(6) If the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

(7) If the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(b) For purposes of this section, the following definitions apply:

(1) "Duress" means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed, or acquiesce in an act to which one otherwise would not have submitted. The total circumstances, including the age of the victim, and the victim's relationship to the defendant, are factors to consider in appraising the existence of duress.

(2) "Menace" means any threat, declaration, or act that shows an intention to inflict an injury upon another.

SEC. 18. Section 261.6 of the Penal Code is amended to read:

261.6. (a) In prosecutions under Section 261, 286, 287, or 289, or former Section 262 or 288a, in which consent is at issue, "consent" means positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved.

(b) A current or previous dating or marital relationship is not sufficient to constitute consent if consent is at issue in a prosecution under Section 261, 286, 287, or 289, or former Section 262 or 288a.

(c) This section shall not affect the admissibility of evidence or the burden of proof on the issue of consent.

SEC. 19. Section 261.7 of the Penal Code is amended to read:

261.7. In prosecutions under Section 261, 286, 287, or 289, or former Section 262 or 288a, in which consent is at issue, evidence that the victim suggested, requested, or otherwise communicated to the defendant that the defendant use a condom or other birth control device, without additional evidence of consent, is not sufficient to constitute consent.

SEC. 20. Section 262 of the Penal Code is repealed.

SEC. 21. Section 264 of the Penal Code is amended to read:

264. (a) Except as provided in subdivision (c), rape, as defined in Section 261 or former Section 262, is punishable by imprisonment in the state prison for three, six, or eight years.

(b) In addition to any punishment imposed under this section the judge may assess a fine not to exceed seventy dollars ($70) against a person who violates Section 261 or former Section 262 with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of the defendant's inability to pay the fine permitted under this subdivision.

(c) (1) A person who commits rape in violation of paragraph (2) of subdivision (a) of Section 261 upon a child who is under 14 years of age shall be punished by imprisonment in the state prison for 9, 11, or 13 years.

(2) A person who commits rape in violation of paragraph (2) of subdivision (a) of Section 261 upon a minor who is 14 years of age or older shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(3) This subdivision does not preclude prosecution under Section 269, Section 288.7, or any other law.

SEC. 22. Section 264.1 of the Penal Code is amended to read:

264.1. (a) The provisions of Section 264 notwithstanding, when the defendant, voluntarily acting in concert with another person, by force or violence and against the will of the victim, committed an act described in Section 261 or 289, either personally or by aiding and abetting the other person, that fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a court trial, or if admitted by the defendant, the defendant shall suffer confinement in the state prison for five, seven, or nine years.

(b) (1) If the victim of an offense described in subdivision (a) is a child who is under 14 years of age, the defendant shall be punished by imprisonment in the state prison for 10, 12, or 14 years.

(2) If the victim of an offense described in subdivision (a) is a minor who is 14 years of age or older, the defendant shall be punished by imprisonment in the state prison for 7, 9, or 11 years.

(3) This subdivision does not preclude prosecution under Section 269, Section 288.7, or any other law.

SEC. 23. Section 264.2 of the Penal Code is amended to read:

264.2. (a) When there is an alleged violation or violations of subdivision (e) of Section 243, or Section 261, 261.5, 273.5, 286, 287, or 289, the law enforcement officer assigned to the case shall immediately provide the victim of the crime with the "Victims of Domestic Violence" card, as specified in subparagraph (H) of paragraph (9) of subdivision (c) of Section 13701, or with the card described in subdivision (a) of Section 680.2, whichever is more applicable.

(b) (1) The law enforcement officer, or the law enforcement officer's agency, shall immediately notify the local rape victim counseling center, whenever a victim of an alleged violation of Section 261, 261.5, 286, 287, or 289 is transported to a hospital for a medical evidentiary or physical examination. The hospital may notify the local rape victim counseling center, when the victim of the alleged violation of Section 261, 261.5, 286, 287, or 289 is presented to the hospital for the medical or evidentiary physical examination, upon approval of the victim. The victim has the right to have a sexual assault counselor, as defined in Section 1035.2

of the Evidence Code, and a support person of the victim's choosing present at any medical evidentiary or physical examination.

(2) Prior to the commencement of an initial medical evidentiary or physical examination arising out of a sexual assault, the medical provider shall give the victim the card described in subdivision (a) of Section 680.2. This requirement shall apply only if the law enforcement agency has provided the card to the medical provider in a language understood by the victim.

(3) The hospital may verify with the law enforcement officer, or the law enforcement officer's agency, whether the local rape victim counseling center has been notified, upon the approval of the victim.

(4) A support person may be excluded from a medical evidentiary or physical examination if the law enforcement officer or medical provider determines that the presence of that individual would be detrimental to the purpose of the examination.

(5) After conducting the medical evidentiary or physical examination, the medical provider shall give the victim the opportunity to shower or bathe at no cost to the victim, unless a showering or bathing facility is not available.

(6) A medical provider shall, within 24 hours of obtaining sexual assault forensic evidence from the victim, notify the law enforcement agency having jurisdiction over the alleged violation if the medical provider knows the appropriate jurisdiction. If the medical provider does not know the appropriate jurisdiction, the medical provider shall notify the local law enforcement agency.

SEC. 24. Section 273.7 of the Penal Code is amended to read:

273.7. (a) A person who maliciously publishes, disseminates, or otherwise discloses the location of a trafficking shelter or domestic violence shelter or a place designated as a trafficking shelter or domestic violence shelter, without the authorization of that trafficking shelter or domestic violence shelter, is guilty of a misdemeanor.

(b) For purposes of this section, the following definitions apply:

(1) "Domestic violence shelter" means a confidential location that provides emergency housing on a 24-hour basis for victims of sexual assault, spousal abuse, or both, and their families.

(2) "Trafficking shelter" means a confidential location that provides emergency housing on a 24-hour basis for victims of

human trafficking, including any person who is a victim under Section 236.1.

(3) Sexual assault, spousal abuse, or both, include, but are not limited to, those crimes described in Sections 240, 242, 243.4, 261, 261.5, 264.1, 266, 266a, 266b, 266c, 266f, 273.5, 273.6, 285, 288, and 289.

(c) This section does not apply to confidential communications between an attorney and their client.

SEC. 25. Section 290 of the Penal Code, as amended by Section 2 of Chapter 79 of the Statutes of 2020, is amended to read:

290. (a) Sections 290 to 290.024, inclusive, shall be known, and may be cited, as the Sex Offender Registration Act. All references to "the Act" in those sections are to the Sex Offender Registration Act.

(b) Every person described in subdivision (c), for the period specified in subdivision (d) while residing in California, or while attending school or working in California, as described in Sections 290.002 and 290.01, shall register with the chief of police of the city in which the person is residing, or the sheriff of the county if the person is residing in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if the person is residing upon the campus or in any of its facilities, within five working days of coming into, or changing the person's residence within, any city, county, or city and county, or campus in which the person temporarily resides, and shall register thereafter in accordance with the Act, unless the duty to register is terminated pursuant to Section 290.5 or as otherwise provided by law.

(c) (1) The following persons shall register:

Every person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 187 committed in the perpetration, or an attempt to perpetrate, rape, or any act punishable under Section 286, 287, 288, or 289 or former Section 288a, Section 207 or 209 committed with intent to violate Section 261, 286, 287, 288, or 289 or former Section 288a, Section 220, except assault to commit mayhem, subdivision (b) or (c) of Section 236.1, Section 243.4, Section 261, paragraph (1) of subdivision (a) of former Section 262 involving the use of force or violence for which the

person is sentenced to the state prison, Section 264.1, 266, or 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, Section 266j, 267, 269, 285, 286, 287, 288, 288.3, 288.4, 288.5, 288.7, 289, or 311.1, or former Section 288a, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; any statutory predecessor that includes all elements of one of the offenses described in this subdivision; or any person who since that date has been or is hereafter convicted of the attempt or conspiracy to commit any of the offenses described in this subdivision.

(2) Notwithstanding paragraph (1), a person convicted of a violation of subdivision (b) of Section 286, subdivision (b) of Section 287, or subdivision (h) or (i) of Section 289 shall not be required to register if, at the time of the offense, the person is not more than 10 years older than the minor, as measured from the minor's date of birth to the person's date of birth, and the conviction is the only one requiring the person to register. This paragraph does not preclude the court from requiring a person to register pursuant to Section 290.006.

(d) A person described in subdivision (c), or who is otherwise required to register pursuant to the Act shall register for 10 years, 20 years, or life, following a conviction and release from incarceration, placement, commitment, or release on probation or other supervision, as follows:

(1) (A) A tier one offender is subject to registration for a minimum of 10 years. A person is a tier one offender if the person is required to register for conviction of a misdemeanor described in subdivision (c), or for conviction of a felony described in subdivision (c) that was not a serious or violent felony as described in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7.

(B) This paragraph does not apply to a person who is subject to registration pursuant to paragraph (2) or (3).

(2) (A) A tier two offender is subject to registration for a minimum of 20 years. A person is a tier two offender if the person was convicted of an offense described in subdivision (c) that is also described in subdivision (c) of Section 667.5 or subdivision

(c) of Section 1192.7, Section 285, subdivision (g) or (h) of Section 286, subdivision (g) or (h) of Section 287 or former Section 288a, subdivision (b) of Section 289, or Section 647.6 if it is a second or subsequent conviction for that offense that was brought and tried separately.

(B) This paragraph does not apply if the person is subject to lifetime registration as required in paragraph (3).

(3) A tier three offender is subject to registration for life. A person is a tier three offender if any one of the following applies:

(A) Following conviction of a registerable offense, the person was subsequently convicted in a separate proceeding of committing an offense described in subdivision (c) and the conviction is for commission of a violent felony described in subdivision (c) of Section 667.5, or the person was subsequently convicted of committing an offense for which the person was ordered to register pursuant to Section 290.006, and the conviction is for the commission of a violent felony described in subdivision (c) of Section 667.5.

(B) The person was committed to a state mental hospital as a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(C) The person was convicted of violating any of the following:

(i) Section 187 while attempting to commit or committing an act punishable under Section 261, 286, 287, 288, or 289 or former Section 288a.

(ii) Section 207 or 209 with intent to violate Section 261, 286, 287, 288, or 289 or former Section 288a.

(iii) Section 220.

(iv) Subdivision (b) of Section 266h.

(v) Subdivision (b) of Section 266i.

(vi) Section 266j.

(vii) Section 267.

(viii) Section 269.

(ix) Subdivision (b) or (c) of Section 288.

(x) Section 288.2.

(xi) Section 288.3, unless committed with the intent to commit a violation of subdivision (b) of Section 286, subdivision (b) of Section 287 or former Section 288a, or subdivision (h) or (i) of Section 289.

(xii) Section 288.4.

(xiii) Section 288.5.

(xiv) Section 288.7.

(xv) Subdivision (c) of Section 653f.

(xvi) Any offense for which the person is sentenced to a life term pursuant to Section 667.61.

(D) The person's risk level on the static risk assessment instrument for sex offenders (SARATSO), pursuant to Section 290.04, is well above average risk at the time of release on the index sex offense into the community, as defined in the Coding Rules for that instrument.

(E) The person is a habitual sex offender pursuant to Section 667.71.

(F) The person was convicted of violating subdivision (a) of Section 288 in two proceedings brought and tried separately.

(G) The person was sentenced to 15 to 25 years to life for an offense listed in Section 667.61.

(H) The person is required to register pursuant to Section 290.004.

(I) The person was convicted of a felony offense described in subdivision (b) or (c) of Section 236.1.

(J) The person was convicted of a felony offense described in subdivision (a), (c), or (d) of Section 243.4.

(K) The person was convicted of violating paragraph (2), (3), or (4) of subdivision (a) of Section 261 or was convicted of violating Section 261 and punished pursuant to paragraph (1) or (2) of subdivision (c) of Section 264.

(L) The person was convicted of violating paragraph (1) of subdivision (a) of former Section 262.

(M) The person was convicted of violating Section 264.1.

(N) The person was convicted of any offense involving lewd or lascivious conduct under Section 272.

(O) The person was convicted of violating paragraph (2) of subdivision (c) or subdivision (d), (f), or (i) of Section 286.

(P) The person was convicted of violating paragraph (2) of subdivision (c) or subdivision (d), (f), or (i) of Section 287 or former Section 288a.

(Q) The person was convicted of violating paragraph (1) of subdivision (a) or subdivision (d), (e), or (j) of Section 289.

(R) The person was convicted of a felony violation of Section 311.1 or 311.11 or of violating subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, or 311.10.

(4) (A) A person who is required to register pursuant to Section 290.005 shall be placed in the appropriate tier if the offense is assessed as equivalent to a California registerable offense described in subdivision (c).

(B) If the person's duty to register pursuant to Section 290.005 is based solely on the requirement of registration in another jurisdiction, and there is no equivalent California registerable offense, the person shall be subject to registration as a tier two offender, except that the person is subject to registration as a tier three offender if one of the following applies:

(i) The person's risk level on the static risk assessment instrument (SARATSO), pursuant to Section 290.06, is well above average risk at the time of release on the index sex offense into the community, as defined in the Coding Rules for that instrument.

(ii) The person was subsequently convicted in a separate proceeding of an offense substantially similar to an offense listed in subdivision (c) which is also substantially similar to an offense described in subdivision (c) of Section 667.5, or is substantially similar to Section 269 or 288.7.

(iii) The person has ever been committed to a state mental hospital or mental health facility in a proceeding substantially similar to civil commitment as a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(5) (A) The Department of Justice may place a person described in subdivision (c), or who is otherwise required to register pursuant to the Act, in a tier-to-be-determined category if the appropriate tier designation described in this subdivision cannot be immediately ascertained. An individual placed in this tier-to-be-determined category shall continue to register in accordance with the Act. The individual shall be given credit toward the mandated minimum registration period for any period for which the individual registers.

(B) The Department of Justice shall ascertain an individual's appropriate tier designation as described in this subdivision within 24 months of the individual's placement in the tier-to-be-determined category.

(e) The minimum time period for the completion of the required registration period in tier one or two commences on the date of release from incarceration, placement, or commitment, including any related civil commitment on the registerable offense. The minimum time for the completion of the required registration period for a designated tier is tolled during any period of subsequent incarceration, placement, or commitment, including any subsequent civil commitment, except that arrests not resulting in conviction, adjudication, or revocation of probation or parole shall not toll the required registration period. The minimum time period shall be extended by one year for each misdemeanor conviction of failing to register under this act, and by three years for each felony conviction of failing to register under this act, without regard to the actual time served in custody for the conviction. If a registrant is subsequently convicted of another offense requiring registration pursuant to the Act, a new minimum time period for the completion of the registration requirement for the applicable tier shall commence upon that person's release from incarceration, placement, or commitment, including any related civil commitment. If the subsequent conviction requiring registration pursuant to the Act occurs prior to an order to terminate the registrant from the registry after completion of a tier associated with the first conviction for a registerable offense, the applicable tier shall be the highest tier associated with the convictions.

(f) This section does not require a ward of the juvenile court to register under the Act, except as provided in Section 290.008.

SEC. 26. Section 292 of the Penal Code is amended to read:

292. It is the intention of the Legislature in enacting this section to clarify that for the purposes of subdivisions (b) and (c) of Section 12 of Article I of the California Constitution, a violation of paragraph (2) or (6) of subdivision (a) of Section 261, paragraph (1) or (4) of subdivision (a) of former Section 262, Section 264.1, subdivision (c) or (d) of Section 286, subdivision (c) or (d) of Section 287 or former Section 288a, subdivision (b) of Section 288, or subdivision (a) of Section 289, shall be deemed to be a felony offense involving an act of violence and a felony offense involving great bodily harm.

SEC. 27. Section 667 of the Penal Code is amended to read:

667. (a) (1) A person convicted of a serious felony who previously has been convicted of a serious felony in this state or

of any offense committed in another jurisdiction that includes all of the elements of any serious felony, shall receive, in addition to the sentence imposed by the court for the present offense, a five-year enhancement for each such prior conviction on charges brought and tried separately. The terms of the present offense and each enhancement shall run consecutively.

(2) This subdivision shall not be applied when the punishment imposed under other provisions of law would result in a longer term of imprisonment. There is no requirement of prior incarceration or commitment for this subdivision to apply.

(3) The Legislature may increase the length of the enhancement of sentence provided in this subdivision by a statute passed by majority vote of each house thereof.

(4) As used in this subdivision, "serious felony" means a serious felony listed in subdivision (c) of Section 1192.7.

(5) This subdivision does not apply to a person convicted of selling, furnishing, administering, or giving, or offering to sell, furnish, administer, or give to a minor any methamphetamine-related drug or any precursors of methamphetamine unless the prior conviction was for a serious felony described in subparagraph (24) of subdivision (c) of Section 1192.7.

(b) It is the intent of the Legislature in enacting subdivisions (b) to (i), inclusive, to ensure longer prison sentences and greater punishment for those who commit a felony and have been previously convicted of one or more serious or violent felony offenses.

(c) Notwithstanding any other law, if a defendant has been convicted of a felony and it has been pled and proved that the defendant has one or more prior serious or violent felony convictions as defined in subdivision (d), the court shall adhere to each of the following:

(1) There shall not be an aggregate term limitation for purposes of consecutive sentencing for any subsequent felony conviction.

(2) Probation for the current offense shall not be granted, nor shall execution or imposition of the sentence be suspended for any prior offense.

(3) The length of time between the prior serious or violent felony conviction and the current felony conviction shall not affect the imposition of sentence.

(4) There shall not be a commitment to any other facility other than the state prison. Diversion shall not be granted, nor shall the defendant be eligible for commitment to the California Rehabilitation Center as provided in Article 2 (commencing with Section 3050) of Chapter 1 of Division 3 of the Welfare and Institutions Code.

(5) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not exceed one-fifth of the total term of imprisonment imposed and shall not accrue until the defendant is physically placed in the state prison.

(6) If there is a current conviction for more than one felony count not committed on the same occasion, and not arising from the same set of operative facts, the court shall sentence the defendant consecutively on each count pursuant to subdivision (e).

(7) If there is a current conviction for more than one serious or violent felony as described in paragraph (6), the court shall impose the sentence for each conviction consecutive to the sentence for any other conviction for which the defendant may be consecutively sentenced in the manner prescribed by law.

(8) A sentence imposed pursuant to subdivision (e) shall be imposed consecutive to any other sentence that the defendant is already serving, unless otherwise provided by law.

(d) Notwithstanding any other law and for the purposes of subdivisions (b) to (i), inclusive, a prior conviction of a serious or violent felony shall be defined as:

(1) An offense defined in subdivision (c) of Section 667.5 as a violent felony or an offense defined in subdivision (c) of Section 1192.7 as a serious felony in this state. The determination of whether a prior conviction is a prior felony conviction for purposes of subdivisions (b) to (i), inclusive, shall be made upon the date of that prior conviction and is not affected by the sentence imposed unless the sentence automatically, upon the initial sentencing, converts the felony to a misdemeanor. The following dispositions shall not affect the determination that a prior conviction is a prior felony for purposes of subdivisions (b) to (i), inclusive:

(A) The suspension of imposition of judgment or sentence.

(B) The stay of execution of sentence.

(C) The commitment to the State Department of State Hospitals as a mentally disordered sex offender following a conviction of a felony.

(D) The commitment to the California Rehabilitation Center or any other facility whose function is rehabilitative diversion from the state prison.

(2) A prior conviction in another jurisdiction for an offense that, if committed in California, is punishable by imprisonment in the state prison constitutes a prior conviction of a particular serious or violent felony if the prior conviction in the other jurisdiction is for an offense that includes all of the elements of a particular violent felony as defined in subdivision (c) of Section 667.5 or serious felony as defined in subdivision (c) of Section 1192.7.

(3) A prior juvenile adjudication constitutes a prior serious or violent felony conviction for purposes of sentence enhancement if it meets all of the following:

(A) The juvenile was 16 years of age or older at the time the juvenile committed the prior offense.

(B) The prior offense is listed in subdivision (b) of Section 707 of the Welfare and Institutions Code or described in paragraph (1) or (2) as a serious or violent felony.

(C) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law.

(D) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code.

(e) For purposes of subdivisions (b) to (i), inclusive, and in addition to any other enhancement or punishment provisions that apply, the following apply if a defendant has one or more prior serious or violent felony convictions:

(1) If a defendant has one prior serious or violent felony conviction as defined in subdivision (d) that has been pled and proved, the determinate term or minimum term for an indeterminate term shall be twice the term otherwise provided as punishment for the current felony conviction.

(2) (A) Except as provided in subparagraph (C), if a defendant has two or more prior serious or violent felony convictions as defined in subdivision (d) that have been pled and proved, the term for the current felony conviction shall be an indeterminate term

of life imprisonment with a minimum term of the indeterminate sentence calculated as the greatest of:

(i) Three times the term otherwise provided as punishment for each current felony conviction subsequent to the two or more prior serious or violent felony convictions.

(ii) Imprisonment in the state prison for 25 years.

(iii) 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 190 or 3046.

(B) The indeterminate term described in subparagraph (A) shall be served consecutive to any other term of imprisonment for which a consecutive term may be imposed by law. Any other term imposed subsequent to an indeterminate term described in subparagraph (A) shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

(C) If a defendant has two or more prior serious or violent felony convictions as defined in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7 that have been pled and proved, and the current offense is not a serious or violent felony as defined in subdivision (d), the defendant shall be sentenced pursuant to paragraph (1) of subdivision (e) unless the prosecution pleads and proves any of the following:

(i) The current offense is a controlled substance charge, in which an allegation under Section 11370.4 or 11379.8 of the Health and Safety Code was admitted or found true.

(ii) The current offense is a felony sex offense, defined in subdivision (d) of Section 261.5 or former Section 262, or a felony offense that results in mandatory registration as a sex offender pursuant to subdivision (c) of Section 290 except for violations of Sections 266 and 285, paragraph (1) of subdivision (b) and subdivision (e) of Section 286, paragraph (1) of subdivision (b) and subdivision (e) of Section 288a, Section 311.11, and Section 314.

(iii) During the commission of the current offense, the defendant used a firearm, was armed with a firearm or deadly weapon, or intended to cause great bodily injury to another person.

(iv) The defendant suffered a prior serious or violent felony conviction, as defined in subdivision (d) of this section, for any of the following felonies:

(I) A "sexually violent offense" as defined in subdivision (b) of Section 6600 of the Welfare and Institutions Code.

(II) Oral copulation with a child who is under 14 years of age and more than 10 years younger than the defendant as defined by Section 288a, sodomy with another person who is under 14 years of age and more than 10 years younger than the defendant as defined by Section 286, or sexual penetration with another person who is under 14 years of age and more than 10 years younger than the defendant, as defined by Section 289.

(III) A lewd or lascivious act involving a child under 14 years of age, in violation of Section 288.

(IV) Any homicide offense, including any attempted homicide offense, defined in Sections 187 to 191.5, inclusive.

(V) Solicitation to commit murder as defined in Section 653f.

(VI) Assault with a machinegun on a peace officer or firefighter, as defined in paragraph (3) of subdivision (d) of Section 245.

(VII) Possession of a weapon of mass destruction, as defined in paragraph (1) of subdivision (a) of Section 11418.

(VIII) Any serious or violent felony offense punishable in California by life imprisonment or death.

(f) (1) Notwithstanding any other law, subdivisions (b) to (i), inclusive, shall be applied in every case in which a defendant has one or more prior serious or violent felony convictions as defined in subdivision (d). The prosecuting attorney shall plead and prove each prior serious or violent felony conviction except as provided in paragraph (2).

(2) The prosecuting attorney may move to dismiss or strike a prior serious or violent felony conviction allegation in the furtherance of justice pursuant to Section 1385, or if there is insufficient evidence to prove the prior serious or violent felony conviction. If upon the satisfaction of the court that there is insufficient evidence to prove the prior serious or violent felony conviction, the court may dismiss or strike the allegation. This section shall not be read to alter a court's authority under Section 1385.

(g) Prior serious or violent felony convictions shall not be used in plea bargaining as defined in subdivision (b) of Section 1192.7.

The prosecution shall plead and prove all known prior serious or violent felony convictions and shall not enter into any agreement to strike or seek the dismissal of any prior serious or violent felony conviction allegation except as provided in paragraph (2) of subdivision (f).

(h) All references to existing statutes in subdivisions (c) to (g), inclusive, are to statutes as they existed on November 7, 2012.

(i) If any provision of subdivisions (b) to (h), inclusive, or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of those subdivisions that can be given effect without the invalid provision or application, and to this end the provisions of those subdivisions are severable.

(j) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

SEC. 28. Section 667.5 of the Penal Code is amended to read:

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

(a) If one of the new offenses is one of the violent felonies specified in subdivision (c), in addition to and consecutive to any other prison terms therefor, the court shall impose a three-year term for each prior separate prison term served by the defendant when the prior offense was one of the violent felonies specified in subdivision (c). However, an additional term shall not be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense that results in a felony conviction.

(b) Except when subdivision (a) applies, if the new offense is any felony for which a prison sentence or a sentence of imprisonment in a county jail under subdivision (h) of Section 1170 is imposed or is not suspended, in addition and consecutive to any other sentence therefor, the court shall impose a one-year term for each prior separate prison term for a sexually violent offense as defined in subdivision (b) of Section 6600 of the Welfare and Institutions Code, provided that an additional term shall not be imposed under this subdivision for any prison term served prior

to a period of five years in which the defendant remained free of both the commission of an offense that results in a felony conviction, and prison custody or the imposition of a term of jail custody imposed under subdivision (h) of Section 1170 or any felony sentence that is not suspended.

(c) The Legislature finds and declares that the following specified crimes merit special consideration when imposing a sentence to display society's condemnation for these extraordinary crimes of violence against the person. For the purpose of this section, "violent felony" means any of the following:

(1) Murder or voluntary manslaughter.

(2) Mayhem.

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

(4) Sodomy as defined in subdivision (c) or (d) of Section 286.

(5) Oral copulation as defined in subdivision (c) or (d) of Section 287 or of former Section 288a.

(6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.

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

(8) Any felony in which the defendant inflicts great bodily injury on a person other than an accomplice, which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.

(9) Any robbery.

(10) Arson, in violation of subdivision (a) or (b) of Section 451.

(11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.

(12) Attempted murder.

(13) A violation of Section 18745, 18750, or 18755.

(14) Kidnapping.

(15) Assault with the intent to commit a specified felony, in violation of Section 220.

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

(17) Carjacking, as defined in subdivision (a) of Section 215.

(18) Rape or sexual penetration, in concert, in violation of Section 264.1.

(19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22.

(20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22.

(21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.

(22) Any violation of Section 12022.53.

(23) A violation of subdivision (b) or (c) of Section 11418.

(d) For the purposes of this section, the defendant shall be deemed to remain in prison custody for an offense until the official discharge from custody, including any period of mandatory supervision, or until release on parole or postrelease community supervision, whichever first occurs, including any time during which the defendant remains subject to reimprisonment or custody in county jail for escape from custody or is reimprisoned on revocation of parole or postrelease community supervision. The additional penalties provided for prior prison terms shall not be imposed unless they are charged and admitted or found true in the action for the new offense.

(e) The additional penalties provided for prior prison terms shall not be imposed for any felony for which the defendant did not serve a prior separate term in state prison or in county jail under subdivision (h) of Section 1170.

(f) A prior conviction of a felony shall include a conviction in another jurisdiction for an offense which, if committed in California, is punishable by imprisonment in the state prison or in county jail under subdivision (h) of Section 1170 if the defendant served one year or more in prison for the offense in the other jurisdiction. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense that includes all of the elements of the particular felony as defined under California law if the defendant served one year or more in prison for the offense in the other jurisdiction.

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

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

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

(j) For the purposes of this section, when a person subject to the custody, control, and discipline of the Secretary of the Department of Corrections and Rehabilitation is incarcerated at a facility operated by the Division of Juvenile Justice, that incarceration shall be deemed to be a term served in state prison.

(k) (1) Notwithstanding subdivisions (d) and (g) or any other law, when one of the new offenses is committed while the defendant is temporarily removed from prison pursuant to Section 2690 or while the defendant is transferred to a community facility pursuant to Section 3416, 6253, or 6263, or while the defendant is on furlough pursuant to Section 6254, the defendant shall be subject to the full enhancements provided for in this section.

(2) This subdivision does not apply when a full, separate, and consecutive term is imposed pursuant to any other law.

SEC. 29. Section 667.51 of the Penal Code is amended to read:

667.51. (a) A person who is convicted of violating Section 288 or 288.5 shall receive a five-year enhancement for a prior conviction of an offense specified in subdivision (b).

(b) Section 261, 264.1, 269, 285, 286, 287, 288, 288.5, or 289, former Section 262 or 288a, or any offense committed in another jurisdiction that includes all of the elements of any of the offenses specified in this subdivision.

(c) A violation of Section 288 or 288.5 by a person who has been previously convicted two or more times of an offense specified in subdivision (b) shall be punished by imprisonment in the state prison for 15 years to life.

SEC. 30. Section 667.6 of the Penal Code is amended to read:

667.6. (a) A person who is convicted of an offense specified in subdivision (e) and who has been convicted previously of any of those offenses shall receive a five-year enhancement for each of those prior convictions.

(b) A person who is convicted of an offense specified in subdivision (e) and who has served two or more prior prison terms as defined in Section 667.5 for any of those offenses shall receive a 10-year enhancement for each of those prior terms.

(c) In lieu of the term provided in Section 1170.1, a full, separate, and consecutive term may be imposed for each violation of an offense specified in subdivision (e) if the crimes involve the same victim on the same occasion. A term may be imposed consecutively pursuant to this subdivision if a person is convicted of at least one offense specified in subdivision (e). If the term is imposed consecutively pursuant to this subdivision, it shall be served consecutively to any other term of imprisonment, and shall commence from the time the person otherwise would have been released from imprisonment. The term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person otherwise would have been released from prison.

(d) (1) A full, separate, and consecutive term shall be imposed for each violation of an offense specified in subdivision (e) if the crimes involve separate victims or involve the same victim on separate occasions.

(2) In determining whether crimes against a single victim were committed on separate occasions under this subdivision, the court shall consider whether, between the commission of one sex crime and another, the defendant had a reasonable opportunity to reflect upon the defendant's actions and nevertheless resumed sexually assaultive behavior. Neither the duration of time between crimes, nor whether or not the defendant lost or abandoned the opportunity to attack, shall be, in and of itself, determinative on the issue of whether the crimes in question occurred on separate occasions.

(3) The term shall be served consecutively to any other term of imprisonment and shall commence from the time the person otherwise would have been released from imprisonment. The term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person otherwise would have been released from prison.

(e) This section shall apply to the following offenses:

(1) Rape, in violation of paragraph (2), (3), (6), or (7) of subdivision (a) of Section 261.

(2) Rape, in violation of paragraph (1), (4), or (5) of subdivision (a) of former Section 262.

(3) Rape or sexual penetration, in concert, in violation of Section 264.1.

(4) Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d) or (k), of Section 286.

(5) Lewd or lascivious act, in violation of subdivision (b) of Section 288.

(6) Continuous sexual abuse of a child, in violation of Section 288.5.

(7) Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d) or (k), of Section 287 or of former Section 288a.

(8) Sexual penetration, in violation of subdivision (a) or (g) of Section 289.

(9) As a present offense under subdivision (c) or (d), assault with intent to commit a specified sexual offense, in violation of Section 220.

(10) As a prior conviction under subdivision (a) or (b), an offense committed in another jurisdiction that includes all of the elements of an offense specified in this subdivision.

(f) In addition to any enhancement imposed pursuant to subdivision (a) or (b), the court may also impose a fine not to exceed twenty thousand dollars ($20,000) for anyone sentenced under those provisions. The fine imposed and collected pursuant to this subdivision shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs established pursuant to Section 13837. If the court orders a fine to be imposed pursuant to this

subdivision, the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the county.

SEC. 31. Section 667.61 of the Penal Code is amended to read:

667.61. (a) Except as provided in subdivision (j), (*l*), or (m), a person who is convicted of an offense specified in subdivision (c) under one or more of the circumstances specified in subdivision (d) or under two or more of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for 25 years to life.

(b) Except as provided in subdivision (a), (j), (*l*), or (m), a person who is convicted of an offense specified in subdivision (c) under one of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for 15 years to life.

(c) This section shall apply to any of the following offenses:

(1) Rape, in violation of paragraph (2) or (6) of subdivision (a) of Section 261.

(2) Rape, in violation of paragraph (1) or (4) of subdivision (a) of former Section 262.

(3) Rape or sexual penetration, in concert, in violation of Section 264.1.

(4) Lewd or lascivious act, in violation of subdivision (b) of Section 288.

(5) Sexual penetration, in violation of subdivision (a) of Section 289.

(6) Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 286.

(7) Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 287 or former Section 288a.

(8) Lewd or lascivious act, in violation of subdivision (a) of Section 288.

(9) Continuous sexual abuse of a child, in violation of Section 288.5.

(d) The following circumstances shall apply to the offenses specified in subdivision (c):

(1) The defendant has been previously convicted of an offense specified in subdivision (c), including an offense committed in

another jurisdiction that includes all of the elements of an offense specified in subdivision (c).

(2) The defendant kidnapped the victim of the present offense and the movement of the victim substantially increased the risk of harm to the victim over and above that level of risk necessarily inherent in the underlying offense in subdivision (c).

(3) The defendant inflicted aggravated mayhem or torture on the victim or another person in the commission of the present offense in violation of Section 205 or 206.

(4) The defendant committed the present offense during the commission of a burglary of the first degree, as defined in subdivision (a) of Section 460, with intent to commit an offense specified in subdivision (c).

(5) The defendant committed the present offense in violation of Section 264.1, subdivision (d) of Section 286, or subdivision (d) of Section 287 or former Section 288a, and, in the commission of that offense, any person committed any act described in paragraph (2), (3), or (4) of this subdivision.

(6) The defendant personally inflicted great bodily injury on the victim or another person in the commission of the present offense in violation of Section 12022.53, 12022.7, or 12022.8.

(7) The defendant personally inflicted bodily harm on the victim who was under 14 years of age.

(e) The following circumstances shall apply to the offenses specified in subdivision (c):

(1) Except as provided in paragraph (2) of subdivision (d), the defendant kidnapped the victim of the present offense in violation of Section 207, 209, or 209.5.

(2) Except as provided in paragraph (4) of subdivision (d), the defendant committed the present offense during the commission of a burglary in violation of Section 459.

(3) The defendant personally used a dangerous or deadly weapon or a firearm in the commission of the present offense in violation of Section 12022, 12022.3, 12022.5, or 12022.53.

(4) The defendant has been convicted in the present case or cases of committing an offense specified in subdivision (c) against more than one victim.

(5) The defendant engaged in the tying or binding of the victim or another person in the commission of the present offense.

(6) The defendant administered a controlled substance to the victim in the commission of the present offense in violation of Section 12022.75.

(7) The defendant committed the present offense in violation of Section 264.1, subdivision (d) of Section 286, or subdivision (d) of Section 287 or former Section 288a, and, in the commission of that offense, any person committed an act described in paragraph (1), (2), (3), (5), or (6) of this subdivision or paragraph (6) of subdivision (d).

(f) If only the minimum number of circumstances specified in subdivision (d) or (e) that are required for the punishment provided in subdivision (a), (b), (j), (*l*), or (m) to apply have been pled and proved, that circumstance or those circumstances shall be used as the basis for imposing the term provided in subdivision (a), (b), (j), (*l*), or (m) whichever is greater, rather than being used to impose the punishment authorized under any other law, unless another law provides for a greater penalty or the punishment under another law can be imposed in addition to the punishment provided by this section. However, if any additional circumstance or circumstances specified in subdivision (d) or (e) have been pled and proved, the minimum number of circumstances shall be used as the basis for imposing the term provided in subdivision (a), (j), or (*l*) and any other additional circumstance or circumstances shall be used to impose any punishment or enhancement authorized under any other law.

(g) Notwithstanding Section 1385 or any other law, the court shall not strike any allegation, admission, or finding of any of the circumstances specified in subdivision (d) or (e) for any person who is subject to punishment under this section.

(h) Notwithstanding any other law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, a person who is subject to punishment under this section.

(i) For any offense specified in paragraphs (1) to (7), inclusive, of subdivision (c), or in paragraphs (1) to (6), inclusive, of subdivision (n), the court shall impose a consecutive sentence for each offense that results in a conviction under this section if the crimes involve separate victims or involve the same victim on separate occasions as defined in subdivision (d) of Section 667.6.

(j) (1) A person who is convicted of an offense specified in subdivision (c), with the exception of a violation of subdivision (a) of Section 288, upon a victim who is a child under 14 years of age under one or more of the circumstances specified in subdivision (d) or under two or more of the circumstances specified in subdivision (e), shall be punished by imprisonment in the state prison for life without the possibility of parole. Where the person was under 18 years of age at the time of the offense, the person shall be punished by imprisonment in the state prison for 25 years to life.

(2) A person who is convicted of an offense specified in subdivision (c) under one of the circumstances specified in subdivision (e), upon a victim who is a child under 14 years of age, shall be punished by imprisonment in the state prison for 25 years to life.

(k) As used in this section, "bodily harm" means any substantial physical injury resulting from the use of force that is more than the force necessary to commit an offense specified in subdivision (c).

(*l*) A person who is convicted of an offense specified in subdivision (n) under one or more of the circumstances specified in subdivision (d) or under two or more of the circumstances specified in subdivision (e), upon a victim who is a minor 14 years of age or older shall be punished by imprisonment in the state prison for life without the possibility of parole. If the person who was convicted was under 18 years of age at the time of the offense, the person shall be punished by imprisonment in the state prison for 25 years to life.

(m) A person who is convicted of an offense specified in subdivision (n) under one of the circumstances specified in subdivision (e) against a minor 14 years of age or older shall be punished by imprisonment in the state prison for 25 years to life.

(n) Subdivisions (*l*) and (m) shall apply to any of the following offenses:

(1) Rape, in violation of paragraph (2) of subdivision (a) of Section 261.

(2) Rape, in violation of paragraph (1) of subdivision (a) of former Section 262.

(3) Rape or sexual penetration, in concert, in violation of Section 264.1.

(4) Sexual penetration, in violation of paragraph (1) of subdivision (a) of Section 289.

(5) Sodomy, in violation of paragraph (2) of subdivision (c) of Section 286, or in violation of subdivision (d) of Section 286.

(6) Oral copulation, in violation of paragraph (2) of subdivision (c) of Section 287 or former Section 288a, or in violation of subdivision (d) of Section 287 or former Section 288a.

(o) The penalties provided in this section shall apply only if the existence of any circumstance specified in subdivision (d) or (e) is alleged in the accusatory pleading pursuant to this section, and is either admitted by the defendant in open court or found to be true by the trier of fact.

SEC. 32. Section 667.71 of the Penal Code is amended to read:

667.71. (a) For the purpose of this section, a habitual sexual offender is a person who has been previously convicted of one or more of the offenses specified in subdivision (c) and who is convicted in the present proceeding of one of those offenses.

(b) A habitual sexual offender shall be punished by imprisonment in the state prison for 25 years to life.

(c) This section shall apply to any of the following offenses:

(1) Rape, in violation of paragraph (2) or (6) of subdivision (a) of Section 261.

(2) Rape, in violation of paragraph (1) or (4) of subdivision (a) of former Section 262.

(3) Rape or sexual penetration, in concert, in violation of Section 264.1.

(4) Lewd or lascivious act, in violation of subdivision (a) or (b) of Section 288.

(5) Sexual penetration, in violation of subdivision (a) or (j) of Section 289.

(6) Continuous sexual abuse of a child, in violation of Section 288.5.

(7) Sodomy, in violation of subdivision (c) or (d) of Section 286.

(8) Oral copulation, in violation of subdivision (c) or (d) of Section 287 or of former Section 288a.

(9) Kidnapping, in violation of subdivision (b) of Section 207.

(10) Kidnapping, in violation of former subdivision (d) of Section 208 (kidnapping to commit specified sex offenses).

(11) Kidnapping, in violation of subdivision (b) of Section 209 with the intent to commit a specified sexual offense.

(12) Aggravated sexual assault of a child, in violation of Section 269.

(13) An offense committed in another jurisdiction that includes all of the elements of an offense specified in this subdivision.

(d) Notwithstanding Section 1385 or any other law, the court shall not strike any allegation, admission, or finding of any prior conviction specified in subdivision (c) for a person who is subject to punishment under this section.

(e) Notwithstanding any other law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, a person who is subject to punishment under this section.

(f) This section shall apply only if the defendant's status as a habitual sexual offender is alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the trier of fact.

SEC. 33. Section 667.8 of the Penal Code is amended to read:

667.8. (a) Except as provided in subdivision (b), a person convicted of a felony violation of Section 261, 264.1, 286, 287, or 289 or former Section 262 or 288a who, for the purpose of committing that sexual offense, kidnapped the victim in violation of Section 207 or 209, shall be punished by an additional term of nine years.

(b) A person convicted of a felony violation of subdivision (c) of Section 286, subdivision (c) of Section 287 or former Section 288a, or Section 288 who, for the purpose of committing that sexual offense, kidnapped the victim, who was under 14 years of age at the time of the offense, in violation of Section 207 or 209, shall be punished by an additional term of 15 years. This subdivision does not apply to conduct proscribed by Section 277, 278, or 278.5.

(c) The following shall govern the imposition of an enhancement pursuant to this section:

(1) Only one enhancement shall be imposed for a victim per incident.

(2) If there are two or more victims, one enhancement can be imposed for each victim per incident.

(3) The enhancement may be in addition to the punishment for either, but not both, of the following:

(A) A violation of Section 207 or 209.

(B) A violation of the sexual offenses enumerated in this section.

SEC. 34. Section 667.9 of the Penal Code is amended to read:

667.9. (a) A person who commits one or more of the crimes specified in subdivision (c) against a person who is 65 years of age or older, or against a person who is blind, deaf, developmentally disabled, a paraplegic, or a quadriplegic, or against a person who is under 14 years of age, and that disability or condition is known or reasonably should be known to the person committing the crime, shall receive a one-year enhancement for each violation.

(b) A person who commits a violation of subdivision (a) and who has a prior conviction for any of the offenses specified in subdivision (c), shall receive a two-year enhancement for each violation in addition to the sentence provided under Section 667.

(c) Subdivisions (a) and (b) apply to the following crimes:

(1) Mayhem, in violation of Section 203 or 205.

(2) Kidnapping, in violation of Section 207, 209, or 209.5.

(3) Robbery, in violation of Section 211.

(4) Carjacking, in violation of Section 215.

(5) Rape, in violation of paragraph (2) or (6) of subdivision (a) of Section 261.

(6) Rape, in violation of paragraph (1) or (4) of subdivision (a) of former Section 262.

(7) Rape or sexual penetration in concert, in violation of Section 264.1.

(8) Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 286.

(9) Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 287 or of former Section 288a.

(10) Sexual penetration, in violation of subdivision (a) of Section 289.

(11) Burglary of the first degree, as defined in Section 460, in violation of Section 459.

(d) As used in this section, "developmentally disabled" means a severe, chronic disability of a person, which is all of the following:

(1) Attributable to a mental or physical impairment or a combination of mental and physical impairments.

(2) Likely to continue indefinitely.

(3) Results in substantial functional limitation in three or more of the following areas of life activity:

(A) Self-care.

(B) Receptive and expressive language.

(C) Learning.

(D) Mobility.

(E) Self-direction.

(F) Capacity for independent living.

(G) Economic self-sufficiency.

SEC. 35. Section 679.02 of the Penal Code is amended to read:

679.02. (a) The following rights are hereby established as the statutory rights of victims and witnesses of crimes:

(1) To be notified as soon as feasible that a court proceeding to which the victim or witness has been subpoenaed as a witness will not proceed as scheduled, provided the prosecuting attorney determines that the witness' attendance is not required.

(2) Upon request of the victim or a witness, to be informed by the prosecuting attorney of the final disposition of the case, as provided by Section 11116.10.

(3) For the victim, the victim's parents or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, to be notified of all sentencing proceedings, and of the right to appear, to reasonably express their views, have those views preserved by audio or video means as provided in Section 1191.16, and to have the court consider their statements, as provided by Sections 1191.1 and 1191.15.

(4) For the victim, the victim's parents or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, to be notified of all juvenile disposition hearings in which the alleged act would have been a felony if committed by an adult, and of the right to attend and to express their views, as provided by Section 656.2 of the Welfare and Institutions Code.

(5) Upon request by the victim or the next of kin of the victim if the victim has died, to be notified of any parole eligibility hearing and of the right to appear, either personally as provided by Section 3043, or by other means as provided by Sections 3043.2 and 3043.25, to reasonably express their views, and to have their statements considered, as provided by Section 3043 of this code and by Section 1767 of the Welfare and Institutions Code.

(6) Upon request by the victim or the next of kin of the victim if the crime was a homicide, to be notified of an inmate's placement in a reentry or work furlough program, or notified of the inmate's escape as provided by Section 11155.

(7) To be notified that a witness may be entitled to witness fees and mileage, as provided by Section 1329.1.

(8) For the victim, to be provided with information concerning the victim's right to civil recovery and the opportunity to be compensated from the Restitution Fund pursuant to Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code and Section 1191.2 of this code.

(9) To the expeditious return of property that has allegedly been stolen or embezzled, when it is no longer needed as evidence, as provided by Chapter 12 (commencing with Section 1407) and Chapter 13 (commencing with Section 1417) of Title 10 of Part 2.

(10) To an expeditious disposition of the criminal action.

(11) To be notified, if applicable, in accordance with Sections 679.03 and 3058.8 if the defendant is to be placed on parole.

(12) For the victim, upon request, to be notified of any pretrial disposition of the case, to the extent required by Section 28 of Article I of the California Constitution.

(A) A victim may request to be notified of a pretrial disposition.

(B) The victim may be notified by any reasonable means available.

This paragraph is not intended to affect the right of the people and the defendant to an expeditious disposition as provided in Section 1050.

(13) For the victim, to be notified by the district attorney's office of the right to request, upon a form provided by the district attorney's office, and receive a notice pursuant to paragraph (14), if the defendant is convicted of any of the following offenses:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289, in violation of Section 220.

(B) A violation of Section 207 or 209 committed with the intent to commit a violation of Section 261, 286, 287, 288, or 289, or former Section 262 or 288a.

(C) Rape, in violation of Section 261.

(D) Oral copulation, in violation of Section 287 or former Section 288a.

(E) Sodomy, in violation of Section 286.

(F) A violation of Section 288.

(G) A violation of Section 289.

(14) When a victim has requested notification pursuant to paragraph (13), the sheriff shall inform the victim that the person who was convicted of the offense has been ordered to be placed on probation, and give the victim notice of the proposed date upon which the person will be released from the custody of the sheriff.

(b) The rights set forth in subdivision (a) shall be set forth in the information and educational materials prepared pursuant to Section 13897.1. The information and educational materials shall be distributed to local law enforcement agencies and local victims' programs by the Victims' Legal Resource Center established pursuant to Chapter 11 (commencing with Section 13897) of Title 6 of Part 4.

(c) Local law enforcement agencies shall make available copies of the materials described in subdivision (b) to victims and witnesses.

(d) This section is not intended to affect the rights and services provided to victims and witnesses by the local assistance centers for victims and witnesses.

(e) The court shall not release statements, made pursuant to paragraph (3) or (4) of subdivision (a), to the public prior to the statement being heard in court.

SEC. 36. Section 680 of the Penal Code is amended to read:

680. (a) This section shall be known as and may be cited as the "Sexual Assault Victims' DNA Bill of Rights."

(b) The Legislature finds and declares all of the following:

(1) Deoxyribonucleic acid (DNA) and forensic identification analysis is a powerful law enforcement tool for identifying and prosecuting sexual assault offenders.

(2) Existing law requires an adult arrested for or charged with a felony and a juvenile adjudicated for a felony to submit DNA samples as a result of that arrest, charge, or adjudication.

(3) Victims of sexual assaults have a strong interest in the investigation and prosecution of their cases.

(4) Law enforcement agencies have an obligation to victims of sexual assaults in the proper handling, retention, and timely DNA

testing of rape kit evidence or other crime scene evidence and to be responsive to victims concerning the developments of forensic testing and the investigation of their cases.

(5) The growth of the Department of Justice's Cal-DNA databank and the national databank through the Combined DNA Index System (CODIS) makes it possible for many sexual assault perpetrators to be identified after their first offense, provided that rape kit evidence is analyzed in a timely manner.

(6) Timely DNA analysis of rape kit evidence is a core public safety issue affecting men, women, and children in the State of California. It is the intent of the Legislature, in order to further public safety, to encourage DNA analysis of rape kit evidence within the time limits imposed by subparagraphs (A) and (B) of paragraph (1) of subdivision (g) of Section 803.

(c) In order to ensure that sexual assault forensic evidence is analyzed within the two-year timeframe required by subparagraphs (A) and (B) of paragraph (1) of subdivision (g) of Section 803 and to ensure the longest possible statute of limitations for sex offenses, including sex offenses designated pursuant to those subparagraphs, the following shall occur:

(1) A law enforcement agency in whose jurisdiction a sex offense specified in Section 261, 261.5, 286, 287, or 289 or former Section 262 or 288a occurred shall do one of the following for any sexual assault forensic evidence received by the law enforcement agency on or after January 1, 2016:

(A) Submit sexual assault forensic evidence to the crime lab within 20 days after it is booked into evidence.

(B) Ensure that a rapid turnaround DNA program is in place to submit forensic evidence collected from the victim of a sexual assault directly from the medical facility where the victim is examined to the crime lab within five days after the evidence is obtained from the victim.

(2) The crime lab shall do one of the following for any sexual assault forensic evidence received by the crime lab on or after January 1, 2016:

(A) Process sexual assault forensic evidence, create DNA profiles when able, and upload qualifying DNA profiles into CODIS as soon as practically possible, but no later than 120 days after initially receiving the evidence.

(B) Transmit the sexual assault forensic evidence to another crime lab as soon as practically possible, but no later than 30 days after initially receiving the evidence, for processing of the evidence for the presence of DNA. If a DNA profile is created, the transmitting crime lab shall upload the profile into CODIS as soon as practically possible, but no longer than 30 days after being notified about the presence of DNA.

(3) This subdivision does not require a lab to test all items of forensic evidence obtained in a sexual assault forensic evidence examination. A lab is considered to be in compliance with the guidelines of this section when representative samples of the evidence are processed by the lab in an effort to detect the foreign DNA of the perpetrator.

(4) This section does not require a DNA profile to be uploaded into CODIS if the DNA profile does not meet federal guidelines regarding the uploading of DNA profiles into CODIS.

(5) For purposes of this section, a "rapid turnaround DNA program" is a program for the training of sexual assault team personnel in the selection of representative samples of forensic evidence from the victim to be the best evidence, based on the medical evaluation and patient history, the collection and preservation of that evidence, and the transfer of the evidence directly from the medical facility to the crime lab, which is adopted pursuant to a written agreement between the law enforcement agency, the crime lab, and the medical facility where the sexual assault team is based.

(6) For the purpose of this section, "law enforcement" means the law enforcement agency with the primary responsibility for investigating an alleged sexual assault.

(d) (1) Upon the request of a sexual assault victim, the law enforcement agency investigating a violation of Section 261, 261.5, 286, 287, or 289 or of former Section 262 or 288a shall inform the victim of the status of the DNA testing of the rape kit evidence or other crime scene evidence from the victim's case. The law enforcement agency may, at its discretion, require that the victim's request be in writing. The law enforcement agency shall respond to the victim's request with either an oral or written communication, or by email, if an email address is available. This subdivision does not require that the law enforcement agency communicate with the victim or the victim's designee regarding

the status of DNA testing absent a specific request from the victim or the victim's designee.

(2) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims have the following rights:

(A) The right to be informed whether or not a DNA profile of the assailant was obtained from the testing of the rape kit evidence or other crime scene evidence from their case.

(B) The right to be informed whether or not the DNA profile of the assailant developed from the rape kit evidence or other crime scene evidence has been entered into the Department of Justice Data Bank of case evidence.

(C) The right to be informed whether or not there is a match between the DNA profile of the assailant developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Data Base, provided that disclosure would not impede or compromise an ongoing investigation.

(3) This subdivision is intended to encourage law enforcement agencies to notify victims of information that is in their possession. It is not intended to affect the manner of or frequency with which the Department of Justice provides this information to law enforcement agencies.

(e) If the law enforcement agency does not analyze DNA evidence within six months prior to the time limits established by subparagraphs (A) and (B) of paragraph (1) of subdivision (g) of Section 803, a victim of a sexual assault offense specified in Section 261, 261.5, 286, 287, or 289 or former Section 262 or 288a shall be informed, either orally or in writing, of that fact by the law enforcement agency.

(f) (1) If the law enforcement agency intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case, a victim of a violation of Section 261, 261.5, 286, 287, or 289 or former Section 262 or 288a shall be given written notification by the law enforcement agency of that intention.

(2) A law enforcement agency shall not destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case before at least 20 years, or if the victim was

under 18 years of age at the time of the alleged offense, before the victim's 40th birthday.

(g) Written notification under subdivision (e) or (f) shall be made at least 60 days prior to the destruction or disposal of the rape kit evidence or other crime scene evidence from an unsolved sexual assault case.

(h) A sexual assault victim may designate a sexual assault victim advocate, or other support person of the victim's choosing, to act as a recipient of the above information required to be provided by this section.

(i) It is the intent of the Legislature that a law enforcement agency responsible for providing information under subdivision (d) do so in a timely manner and, upon request of the victim or the victim's designee, advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware. In order to be entitled to receive notice under this section, the victim or the victim's designee shall keep appropriate authorities informed of the name, address, telephone number, and email address of the person to whom the information should be provided, and any changes of the name, address, telephone number, and email address, if an email address is available.

(j) A defendant or person accused or convicted of a crime against the victim shall have no standing to object to any failure to comply with this section. The failure to provide a right or notice to a sexual assault victim under this section may not be used by a defendant to seek to have the conviction or sentence set aside.

(k) The sole civil or criminal remedy available to a sexual assault victim for a law enforcement agency's failure to fulfill its responsibilities under this section is standing to file a writ of mandamus to require compliance with subdivision (e) or (f).

SEC. 37. Section 784.7 of the Penal Code is amended to read:

784.7. (a) If more than one violation of Section 220, except assault with intent to commit mayhem, 261, 264.1, 269, 286, 287, 288, 288.5, 288.7, or 289 or former Section 262 or 288a occurs in more than one jurisdictional territory, the jurisdiction of any of those offenses, and for any offenses properly joinable with that offense, is in any jurisdiction where at least one of the offenses occurred, subject to a hearing, pursuant to Section 954, within the jurisdiction of the proposed trial. At the Section 954 hearing, the

prosecution shall present written evidence that all district attorneys in counties with jurisdiction of the offenses agree to the venue. Charged offenses from jurisdictions where there is not a written agreement from the district attorney shall be returned to that jurisdiction.

(b) If more than one violation of Section 243.4, 261.5, 273a, 273.5, or 646.9 occurs in more than one jurisdictional territory, and the defendant and the victim are the same for all of the offenses, the jurisdiction of any of those offenses and for any offenses properly joinable with that offense, is in any jurisdiction where at least one of the offenses occurred.

(c) If more than one violation of Section 236.1, 266h, or 266i occurs in more than one jurisdictional territory, the jurisdiction of any of those offenses, and for any offenses properly joinable with that offense, is in any jurisdiction where at least one of the offenses occurred, subject to a hearing pursuant to Section 954, within the jurisdiction of the proposed trial. At the Section 954 hearing, the prosecution shall present written evidence that all district attorneys in counties with jurisdiction of the offenses agree to the venue. Charged offenses from jurisdictions where there is not a written agreement from the district attorney shall be returned to that jurisdiction. In determining whether all counts in the complaint should be joined in one county for prosecution, the court shall consider the location and complexity of the likely evidence, where the majority of the offenses occurred, the rights of the defendant and the people, and the convenience of, or hardship to, the victim or victims and witnesses.

SEC. 38. Section 799 of the Penal Code is amended to read:

799. (a) Prosecution for an offense punishable by death or by imprisonment in the state prison for life or for life without the possibility of parole, or for the embezzlement of public money, may be commenced at any time.

(b) (1) Prosecution for a felony offense described in paragraph (1), (2), (3), (4), (6), or (7) of subdivision (a) of Section 261, paragraph (1), (2), (3), (4), or (5) of subdivision (a) of former Section 262, Section 264.1, paragraph (2) or (3) of subdivision (c) of, or subdivision (d), (f), (g), (i), or (k) of, Section 286, paragraph (2) or (3) of subdivision (c) of, or subdivision (d), (f), (g), (i), or (k) of, Section 287 or former Section 288a, subdivision (a) of Section 288 involving substantial sexual conduct as defined in

subdivision (b) of Section 1203.066, subdivision (b) of Section 288, Section 288.5, or subdivision (a), (b), (d), (e), or (g) of Section 289 may be commenced at any time.

(2) This subdivision applies to crimes that were committed on or after January 1, 2017, and to crimes for which the statute of limitations that was in effect prior to January 1, 2017, has not run as of January 1, 2017.

(c) This section applies when the defendant was a minor at the time of the commission of the offense and the prosecuting attorney could have petitioned the court for a fitness hearing pursuant to Section 707 of the Welfare and Institutions Code.

SEC. 39. Section 868.5 of the Penal Code is amended to read:

868.5. (a) Notwithstanding any other law, a prosecuting witness in a case involving a violation or attempted violation of Section 187, 203, 205, or 207, subdivision (b) of Section 209, Section 211, 215, 220, 236.1, 240, 242, 243.4, 245, 261, 266, 266a, 266b, 266c, 266d, 266e, 266f, 266g, 266h, 266i, 266j, 266k, 267, 269, 273a, 273d, 273.5, 273.6, 278, 278.5, 285, 286, 287, 288, 288.5, 288.7, 289, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.10, 311.11, 422, 646.9, or 647.6, former Section 262, 277, 288a, or 647a, subdivision (1) of Section 314, or subdivision (b), (d), or (e) of Section 368 when the prosecuting witness is the elder or dependent adult, shall be entitled, for support, to the attendance of up to two persons of the prosecuting witness' own choosing, one of whom may be a witness, at the preliminary hearing and at the trial, or at a juvenile court proceeding, during the testimony of the prosecuting witness. Only one of those support persons may accompany the witness to the witness stand, although the other may remain in the courtroom during the witness' testimony. The person or persons so chosen shall not be a person described in Section 1070 of the Evidence Code unless the person or persons are related to the prosecuting witness as a parent, guardian, or sibling and do not make notes during the hearing or proceeding.

(b) If the person or persons so chosen are also witnesses, the prosecution shall present evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing, the court shall grant the request unless information presented by the defendant or noticed by the court establishes that the support person's attendance during the testimony of the prosecuting witness

would pose a substantial risk of influencing or affecting the content of that testimony. In the case of a juvenile court proceeding, the judge shall inform the support person or persons that juvenile court proceedings are confidential and may not be discussed with anyone not in attendance at the proceedings. In all cases, the judge shall admonish the support person or persons to not prompt, sway, or influence the witness in any way. This section does not preclude a court from exercising its discretion to remove a person from the courtroom whom it believes is prompting, swaying, or influencing the witness.

(c) The testimony of the person or persons so chosen who are also witnesses shall be presented before the testimony of the prosecuting witness. The prosecuting witness shall be excluded from the courtroom during that testimony. Whenever the evidence given by that person or those persons would be subject to exclusion because it has been given before the corpus delicti has been established, the evidence shall be admitted subject to the court's or the defendant's motion to strike that evidence from the record if the corpus delicti is not later established by the testimony of the prosecuting witness.

SEC. 40. Section 1048 of the Penal Code is amended to read:

1048. (a) The issues on the calendar shall be disposed of in the following order, unless for good cause the court directs an action to be tried out of its order:

(1) Prosecutions for felony, when the defendant is in custody.

(2) Prosecutions for misdemeanor, when the defendant is in custody.

(3) Prosecutions for felony, when the defendant is on bail.

(4) Prosecutions for misdemeanor, when the defendant is on bail.

(b) Notwithstanding subdivision (a), all criminal actions in which (1) a minor is detained as a material witness or is the victim of the alleged offense, (2) a person who was 70 years of age or older at the time of the alleged offense or is a dependent adult, as defined in subdivision (h) of Section 368, was a witness to, or is the victim of, the alleged offense or (3) any person is a victim of an alleged violation of Section 261, 264.1, 273a, 273d, 285, 286, 287, 288, or 289 or former Section 262 or 288a, committed by the use of force, violence, or the threat thereof, shall be given precedence over all other criminal actions in the order of trial. In

those actions, continuations shall be granted by the court only after a hearing and determination of the necessity thereof, and in any event, the trial shall be commenced within 30 days after arraignment, unless for good cause the court shall direct the action to be continued, after a hearing and determination of the necessity of the continuance, and states the findings for a determination of good cause on the record.

(c) This section does not provide a statutory right to a trial within 30 days.

SEC. 41. Section 1127e of the Penal Code is amended to read:

1127e. The term "unchaste character" shall not be used by any court in any criminal case in which the defendant is charged with a violation of Section 261 or 261.5, or attempt to commit or assault with intent to commit any crime defined in any of these sections, in any instruction to the jury.

SEC. 42. Section 1170.12 of the Penal Code is amended to read:

1170.12. (a) Notwithstanding any other law, if a defendant has been convicted of a felony and it has been pled and proved that the defendant has one or more prior serious or violent felony convictions, as defined in subdivision (b), the court shall adhere to each of the following:

(1) There shall not be an aggregate term limitation for purposes of consecutive sentencing for any subsequent felony conviction.

(2) Probation for the current offense shall not be granted, nor shall execution or imposition of the sentence be suspended for any prior offense.

(3) The length of time between the prior serious or violent felony conviction and the current felony conviction shall not affect the imposition of sentence.

(4) There shall not be a commitment to any other facility other than the state prison. Diversion shall not be granted nor shall the defendant be eligible for commitment to the California Rehabilitation Center as provided in Article 2 (commencing with Section 3050) of Chapter 1 of Division 3 of the Welfare and Institutions Code.

(5) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not exceed one-fifth of the total term of imprisonment

imposed and shall not accrue until the defendant is physically placed in the state prison.

(6) If there is a current conviction for more than one felony count not committed on the same occasion, and not arising from the same set of operative facts, the court shall sentence the defendant consecutively on each count pursuant to this section.

(7) If there is a current conviction for more than one serious or violent felony as described in subdivision (b), the court shall impose the sentence for each conviction consecutive to the sentence for any other conviction for which the defendant may be consecutively sentenced in the manner prescribed by law.

(b) Notwithstanding any other law and for the purposes of this section, a prior serious or violent conviction of a felony is defined as:

(1) Any offense defined in subdivision (c) of Section 667.5 as a violent felony or any offense defined in subdivision (c) of Section 1192.7 as a serious felony in this state. The determination of whether a prior conviction is a prior serious or violent felony conviction for purposes of this section shall be made upon the date of that prior conviction and is not affected by the sentence imposed unless the sentence automatically, upon the initial sentencing, converts the felony to a misdemeanor. The following dispositions shall not affect the determination that a prior serious or violent conviction is a serious or violent felony for purposes of this section:

(A) The suspension of imposition of judgment or sentence.

(B) The stay of execution of sentence.

(C) The commitment to the State Department of State Hospitals as a mentally disordered sex offender following a conviction of a felony.

(D) The commitment to the California Rehabilitation Center or any other facility whose function is rehabilitative diversion from the state prison.

(2) A prior conviction in another jurisdiction for an offense that, if committed in California, is punishable by imprisonment in the state prison constitutes a prior conviction of a particular serious or violent felony if the prior conviction in the other jurisdiction is for an offense that includes all of the elements of the particular violent felony as defined in subdivision (c) of Section 667.5 or serious felony as defined in subdivision (c) of Section 1192.7.

(3) A prior juvenile adjudication constitutes a prior serious or violent felony conviction for the purposes of sentence enhancement if it meets all of the following criteria:

(A) The juvenile was 16 years of age or older at the time the juvenile committed the prior offense.

(B) The prior offense is either of the following:

(i) Listed in subdivision (b) of Section 707 of the Welfare and Institutions Code.

(ii) Listed in this subdivision as a serious or violent felony.

(C) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law.

(D) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code.

(c) For purposes of this section, and in addition to any other enhancements or punishment provisions that may apply, the following apply if a defendant has one or more prior serious or violent felony convictions:

(1) If a defendant has one prior serious or violent felony conviction as defined in subdivision (b) that has been pled and proved, the determinate term or minimum term for an indeterminate term shall be twice the term otherwise provided as punishment for the current felony conviction.

(2) (A) Except as provided in subparagraph (C), if a defendant has two or more prior serious or violent felony convictions, as defined in subdivision (b), that have been pled and proved, the term for the current felony conviction shall be an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the greatest of any of the following:

(i) Three times the term otherwise provided as punishment for each current felony conviction subsequent to the two or more prior serious or violent felony convictions.

(ii) Twenty-five years.

(iii) 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 190 or 3046.

(B) The indeterminate term described in subparagraph (A) shall be served consecutive to any other term of imprisonment for which a consecutive term may be imposed by law. Any other term imposed subsequent to an indeterminate term described in subparagraph (A) shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

(C) If a defendant has two or more prior serious or violent felony convictions as defined in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7 that have been pled and proved, and the current offense is not a felony described in paragraph (1) of subdivision (b), the defendant shall be sentenced pursuant to paragraph (1) of subdivision (c), unless the prosecution pleads and proves any of the following:

(i) The current offense is a controlled substance charge, in which an allegation under Section 11370.4 or 11379.8 of the Health and Safety Code was admitted or found true.

(ii) The current offense is a felony sex offense, defined in subdivision (d) of Section 261.5, or any felony offense that results in mandatory registration as a sex offender pursuant to subdivision (c) of Section 290 except for violations of Sections 266 and 285, paragraph (1) of subdivision (b) and subdivision (e) of Section 286, paragraph (1) of subdivision (b) and subdivision (e) of Section 287, Section 314, and Section 311.11.

(iii) During the commission of the current offense, the defendant used a firearm, was armed with a firearm or deadly weapon, or intended to cause great bodily injury to another person.

(iv) The defendant suffered a prior conviction, as defined in subdivision (b), for any of the following serious or violent felonies:

(I) A "sexually violent offense" as defined by subdivision (b) of Section 6600 of the Welfare and Institutions Code.

(II) Oral copulation with a child who is under 14 years of age, and more than 10 years younger than the defendant as defined by Section 287 or former Section 288a, sodomy with another person who is under 14 years of age and more than 10 years younger than the defendant as defined by Section 286, or sexual penetration with another person who is under 14 years of age and more than 10 years younger than the defendant as defined by Section 289.

(III) A lewd or lascivious act involving a child under 14 years of age, in violation of Section 288.

(IV) Any homicide offense, including any attempted homicide offense, defined in Sections 187 to 191.5, inclusive.

(V) Solicitation to commit murder as defined in Section 653f.

(VI) Assault with a machinegun on a peace officer or firefighter, as defined in paragraph (3) of subdivision (d) of Section 245.

(VII) Possession of a weapon of mass destruction, as defined in paragraph (1) of subdivision (a) of Section 11418.

(VIII) Any serious or violent felony offense punishable in California by life imprisonment or death.

(d) (1) Notwithstanding any other law, this section shall be applied in every case in which a defendant has one or more prior serious or violent felony convictions as defined in this section. The prosecuting attorney shall plead and prove each prior serious or violent felony conviction except as provided in paragraph (2).

(2) The prosecuting attorney may move to dismiss or strike a prior serious or violent felony conviction allegation in the furtherance of justice pursuant to Section 1385, or if there is insufficient evidence to prove the prior serious or violent conviction. If upon the satisfaction of the court that there is insufficient evidence to prove the prior serious or violent felony conviction, the court may dismiss or strike the allegation. This section does not alter a court's authority under Section 1385.

(e) Prior serious or violent felony convictions shall not be used in plea bargaining, as defined in subdivision (b) of Section 1192.7. The prosecution shall plead and prove all known prior serious or violent felony convictions and shall not enter into any agreement to strike or seek the dismissal of any prior serious or violent felony conviction allegation except as provided in paragraph (2) of subdivision (d).

(f) If any provision of subdivisions (a) to (e), inclusive, or of Section 1170.126, or the application thereof to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of those subdivisions that can be given effect without the invalid provision or application, and to this end the provisions of those subdivisions are severable.

(g) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

SEC. 43. Section 1192.5 of the Penal Code is amended to read:

1192.5. (a) Upon a plea of guilty or nolo contendere to an accusatory pleading charging a felony, other than a violation of paragraph (2), (3), or (6) of subdivision (a) of Section 261, Section 264.1, Section 286 or 287 or former Section 288a by force, violence, duress, menace, or threat of great bodily harm, subdivision (b) of Section 288, or subdivision (a) of Section 289, the plea may specify the punishment to the same extent as it may be specified by the jury on a plea of not guilty or fixed by the court on a plea of guilty, nolo contendere, or not guilty, and may specify the exercise by the court thereafter of other powers legally available to it.

(b) When the plea is accepted by the prosecuting attorney in open court and is approved by the court, the defendant, except as otherwise provided in this section, cannot be sentenced on the plea to a punishment more severe than that specified in the plea and the court may not proceed as to the plea other than as specified in the plea.

(c) If the court approves of the plea, it shall inform the defendant prior to the making of the plea that (1) its approval is not binding, (2) it may, at the time set for the hearing on the application for probation or pronouncement of judgment, withdraw its approval in the light of further consideration of the matter, and (3) in that case, the defendant shall be permitted to withdraw the plea if the defendant desires to do so. The court shall also cause an inquiry to be made of the defendant to satisfy itself that the plea is freely and voluntarily made, and that there is a factual basis for the plea.

(d) If the plea is not accepted by the prosecuting attorney and approved by the court, the plea shall be deemed withdrawn and the defendant may then enter the plea or pleas as would otherwise have been available.

(e) If the plea is withdrawn or deemed withdrawn, it may not be received in evidence in any criminal, civil, or special action or proceeding of any nature, including proceedings before agencies, commissions, boards, and tribunals.

SEC. 44. Section 1202.1 of the Penal Code is amended to read:

1202.1. (a) Notwithstanding Sections 120975 and 120990 of the Health and Safety Code, the court shall order every person who is convicted of, or adjudged by the court to be a person

described by Section 601 or 602 of the Welfare and Institutions Code as provided in Section 725 of the Welfare and Institutions Code by reason of a violation of, a sexual offense listed in subdivision (e), whether or not a sentence or fine is imposed or probation is granted, to submit to a blood or oral mucosal transudate saliva test for evidence of antibodies to the probable causative agent of acquired immunodeficiency syndrome (AIDS) within 180 days of the date of conviction. Each person tested under this section shall be informed of the results of the blood or oral mucosal transudate saliva test.

(b) Notwithstanding Section 120980 of the Health and Safety Code, the results of the blood or oral mucosal transudate saliva test to detect antibodies to the probable causative agent of AIDS shall be transmitted by the clerk of the court to the Department of Justice and the local health officer.

(c) Notwithstanding Section 120980 of the Health and Safety Code, the Department of Justice shall provide the results of a test or tests as to persons under investigation or being prosecuted under Section 12022.85, if the results are on file with the department, to the defense attorney upon request and the results also shall be available to the prosecuting attorney upon request for the purpose of either preparing counts for a sentence enhancement under Section 12022.85 or complying with subdivision (d).

(d) (1) When a person is convicted of a sexual offense listed in subdivision (e) or adjudged by the court to be a person described by Section 601 or 602 of the Welfare and Institutions Code as provided in Section 725 of the Welfare and Institutions Code by reason of the commission of a sexual offense listed in subdivision (e), the prosecutor or the prosecutor's victim-witness assistance bureau shall advise the victim of the right to receive the results of the blood or oral mucosal transudate saliva test performed pursuant to subdivision (a). The prosecutor or the prosecutor's victim-witness assistance bureau shall refer the victim to the local health officer for counseling to assist the victim in understanding the extent to which the particular circumstances of the crime may or may not have placed the victim at risk of transmission of the human immunodeficiency virus (HIV) from the accused, to ensure that the victim understands the limitations and benefits of current tests for HIV, and to assist the victim in determining whether the victim should make the request.

(2) Notwithstanding any other law, upon the victim's request, the local health officer shall be responsible for disclosing test results to the victim who requested the test and the person who was tested. However, as specified in subdivision (g), positive test results shall not be disclosed to the victim or the person who was tested without offering or providing professional counseling appropriate to the circumstances as follows:

(A) To help the victim understand the extent to which the particular circumstances of the crime may or may not have put the victim at risk of transmission of HIV from the perpetrator.

(B) To ensure that the victim understands both the benefits and limitations of the current tests for HIV.

(C) To obtain referrals to appropriate health care and support services.

(e) For purposes of this section, "sexual offense" includes any of the following:

(1) Rape in violation of Section 261, 261.4, or former Section 262.

(2) Unlawful intercourse with a person under 18 years of age in violation of Section 261.5 or 266c.

(3) Sodomy in violation of Section 266c or 286.

(4) Oral copulation in violation of Section 266c or 287, or former Section 288a.

(5) (A) Any of the following offenses if the court finds that there is probable cause to believe that blood, semen, or any other bodily fluid capable of transmitting HIV has been transferred from the defendant to the victim:

(i) Sexual penetration in violation of Section 264.1, 266c, or 289.

(ii) Aggravated sexual assault of a child in violation of Section 269.

(iii) Lewd or lascivious conduct with a child in violation of Section 288.

(iv) Continuous sexual abuse of a child in violation of Section 288.5.

(v) The attempt to commit any offense described in clauses (i) to (iv), inclusive.

(B) For purposes of this paragraph, the court shall note its finding on the court docket and minute order if one is prepared.

(f) Any blood or oral mucosal transudate saliva tested pursuant to subdivision (a) shall be subjected to appropriate confirmatory tests to ensure accuracy of the first test results, and under no circumstances shall test results be transmitted to the victim or the person who is tested unless any initially reactive test result has been confirmed by appropriate confirmatory tests for positive reactors.

(g) The local health officer shall be responsible for disclosing test results to the victim who requested the test and the person who was tested. However, positive test results shall not be disclosed to the victim or the person who was tested without offering or providing professional counseling appropriate to the circumstances.

(h) The local health officer and the victim shall comply with all laws and policies relating to medical confidentiality, subject to the disclosure authorized by subdivisions (g) and (i).

(i) A victim who receives information from the local health officer pursuant to subdivision (g) may disclose the information as the victim deems necessary to protect the victim's health and safety or the health and safety of the victim's family or sexual partner.

(j) A person who transmits test results or discloses information pursuant to this section shall be immune from civil liability for any action taken in compliance with this section.

SEC. 45. Section 1203.055 of the Penal Code is amended to read:

1203.055. (a) (1) Notwithstanding any other law, in sentencing a person convicted of committing or of attempting to commit one or more of the offenses listed in subdivision (b) against a person who is a passenger, operator, driver, or other occupant of any public transit vehicle whether the offense or attempt is committed within the vehicle or directed at the vehicle, the court shall require that the person serve some period of confinement. If probation is granted, it shall be a condition of probation that the person shall be confined in the county jail for some period of time. If the time spent in jail prior to arraignment is less than 24 hours, it shall not be considered to satisfy the requirement that some period of confinement be imposed.

(2) As used in this subdivision, "public transit vehicle" means a motor vehicle, streetcar, trackless trolley, bus, shuttle, light rail

system, rapid transit system, subway, train, taxicab, or jitney that transports members of the public for hire.

(b) Subdivision (a) applies to the following crimes:

(1) Murder.

(2) A violation of Section 241, 241.3, 241.4, 244, 245, 245.2, or 246.

(3) Robbery, in violation of Section 211.

(4) Kidnapping, in violation of Section 207.

(5) Kidnapping, in violation of Section 209.

(6) Battery, in violation of Section 243, 243.1, or 243.3.

(7) Rape, in violation of Section 261, 264, or 264.1.

(8) Assault with intent to commit rape or sodomy, in violation of Section 220.

(9) Any other offense in which the defendant inflicts great bodily injury on a person other than an accomplice. As used in this paragraph, "great bodily injury" has the same meaning as defined in Section 12022.7.

(10) Grand theft, in violation of subdivision (1) of Section 487.

(11) Throwing of a hard substance or shooting a missile at a transit vehicle, in violation of Section 219.2.

(12) Unlawfully causing a fire, in violation of Section 452.

(13) Drawing, exhibiting, or using a firearm or deadly weapon, in violation of Section 417.

(14) A violation of Section 214.

(15) A violation of Section 215.

(16) Kidnapping, in violation of Section 209.5.

(c) Probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, a person convicted of a felony offense falling within this section if the person has been previously convicted and sentenced pursuant to this section.

(d) (1) The existence of any fact that would make a person ineligible for probation under subdivisions (a) and (c) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury.

A finding bringing the defendant within this section shall not be stricken pursuant to Section 1385 or any law.

(2) This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(e) The court shall require, as a condition of probation for a person convicted of committing a crime that took place on a public transit vehicle, except when the court makes a finding and states on the record clear and compelling reasons why the condition would be inappropriate, that the person make restitution to the victim. If restitution is found to be inappropriate, the court shall require as a condition of probation, except when the court makes a finding and states on the record its reasons that the condition would be inappropriate, that the defendant perform specified community service. This subdivision does not limit the authority of a court to provide additional conditions of probation.

(f) When a person is convicted of committing a crime that took place on a public transit vehicle, the probation officer shall immediately investigate and report to the court at a specified time whether, as a result of the crime, property damage or loss or personal injury was caused by the defendant, the amount of the damage, loss, or injury, and the feasibility of requiring restitution to be made by the defendant. When a probation report is required pursuant to Section 1203 the information required by this subdivision shall be added to that probation report.

SEC. 46. Section 1203.06 of the Penal Code is amended to read:

1203.06. (a) Notwithstanding any other law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within this section be stricken pursuant to Section 1385 for, any of the following persons:

(1) A person who personally used a firearm during the commission or attempted commission of any of the following crimes:

(A) Murder.

(B) Robbery, in violation of Section 211.

(C) Kidnapping, in violation of Section 207, 209, or 209.5.

(D) Lewd or lascivious act, in violation of Section 288.

(E) Burglary of the first degree, as defined in Section 460.

(F) Rape, in violation of Section 261, 264.1, or former Section 262.

(G) Assault with intent to commit a specified sexual offense, in violation of Section 220.

(H) Escape, in violation of Section 4530 or 4532.

(I) Carjacking, in violation of Section 215.

(J) Aggravated mayhem, in violation of Section 205.

(K) Torture, in violation of Section 206.

(L) Continuous sexual abuse of a child, in violation of Section 288.5.

(M) A felony violation of Section 136.1 or 137.

(N) Sodomy, in violation of Section 286.

(O) Oral copulation, in violation of Section 287 or former Section 288a.

(P) Sexual penetration, in violation of Section 289 or 264.1.

(Q) Aggravated sexual assault of a child, in violation of Section 269.

(2) A person previously convicted of a felony specified in paragraph (1), or assault with intent to commit murder under former Section 217, who is convicted of a subsequent felony and who was personally armed with a firearm at any time during its commission or attempted commission or was unlawfully armed with a firearm at the time of arrest for the subsequent felony.

(3) Aggravated arson, in violation of Section 451.5.

(b) The existence of any fact that would make a person ineligible for probation under subdivision (a) 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.

(c) For purposes of this section, the following definitions apply:

(1) "Armed with a firearm" means to knowingly carry or have available for use a firearm as a means of offense or defense.

(2) "Used a firearm" means to display a firearm in a menacing manner, to intentionally fire it, to intentionally strike or hit a human being with it, or to use it in any manner that qualifies under Section 12022.5.

SEC. 47. Section 1203.066 of the Penal Code is amended to read:

1203.066. (a) Notwithstanding Section 1203 or any other law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding

bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any of the following persons:

(1) A person who is convicted of violating Section 288 or 288.5 when the act is committed by the use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(2) A person who caused bodily injury on the child victim in committing a violation of Section 288 or 288.5.

(3) A person who is convicted of a violation of Section 288 or 288.5 and who was a stranger to the child victim or befriended the child victim for the purpose of committing an act in violation of Section 288 or 288.5, unless the defendant honestly and reasonably believed the victim was 14 years of age or older.

(4) A person who used a weapon during the commission of a violation of Section 288 or 288.5.

(5) A person who is convicted of committing a violation of Section 288 or 288.5 and who has been previously convicted of a violation of Section 261, 264.1, 266, 266c, 267, 285, 286, 287, 288, 288.5, or 289, or former Section 262 or 288a, or of assaulting another person with intent to commit a crime specified in this paragraph in violation of Section 220, or who has been previously convicted in another state of an offense which, if committed or attempted in this state, would constitute an offense enumerated in this paragraph.

(6) A person who violated Section 288 or 288.5 while kidnapping the child victim in violation of Section 207, 209, or 209.5.

(7) A person who is convicted of committing a violation of Section 288 or 288.5 against more than one victim.

(8) A person who, in violating Section 288 or 288.5, has substantial sexual conduct with a victim who is under 14 years of age.

(9) A person who, in violating Section 288 or 288.5, used obscene matter, as defined in Section 311, or matter, as defined in Section 311, depicting sexual conduct, as defined in Section 311.3.

(b) "Substantial sexual conduct" means penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object, oral copulation, or masturbation of either the victim or the offender.

(c) (1) Except for a violation of subdivision (b) of Section 288, this section shall only apply if the existence of any fact required in subdivision (a) is alleged in the accusatory pleading and is either admitted by the defendant in open court, or found to be true by the trier of fact.

(2) For the existence of any fact under paragraph (7) of subdivision (a), the allegation must be made pursuant to this section.

(d) (1) If a person is convicted of a violation of Section 288 or 288.5, and the factors listed in subdivision (a) are not pled or proven, probation may be granted only if the following terms and conditions are met:

(A) If the defendant is a member of the victim's household, the court finds that probation is in the best interest of the child victim.

(B) The court finds that rehabilitation of the defendant is feasible and that the defendant is amenable to undergoing treatment, and the defendant is placed in a recognized treatment program designed to deal with child molestation immediately after the grant of probation or the suspension of execution or imposition of sentence.

(C) If the defendant is a member of the victim's household, probation shall not be granted unless the defendant is removed from the household of the victim until the court determines that the best interests of the victim would be served by the defendant's return. While removed from the household, the court shall prohibit contact by the defendant with the victim, with the exception that the court may permit supervised contact, upon the request of the director of the court-ordered supervised treatment program, and with the agreement of the victim and the victim's parent or legal guardian, other than the defendant.

(D) If the defendant is not a member of the victim's household, the court shall prohibit the defendant from being placed or residing within one-half mile of the child victim's residence for the duration of the probation term unless the court, on the record, states its reasons for finding that this residency restriction would not serve the best interests of the victim.

(E) The court finds that there is no threat of physical harm to the victim if probation is granted.

(2) The court shall state its reasons on the record for whatever sentence it imposes on the defendant.

(3) The court shall order the psychiatrist or psychologist who is appointed pursuant to Section 288.1 to include a consideration of the factors specified in subparagraphs (A), (B), and (C) of paragraph (1) in making the report to the court.

(4) The court shall order the defendant to comply with all probation requirements, including the requirements to attend counseling, keep all program appointments, and pay program fees based upon ability to pay.

(5) A victim shall not be compelled to participate in a program or counseling, and a program may not condition a defendant's enrollment on participation by the victim.

(e) As used in subdivision (d), the following definitions apply:

(1) "Contact with the victim" includes all physical contact, being in the presence of the victim, communicating by any means, including by a third party acting on behalf of the defendant, or sending any gifts.

(2) "Recognized treatment program" means a program that consists of the following components:

(A) Substantial expertise in the treatment of child sexual abuse.

(B) A treatment regimen designed to specifically address the offense.

(C) The ability to serve indigent clients.

(D) Adequate reporting requirements to ensure that all persons who, after being ordered to attend and complete a program, may be identified for either failure to enroll in, or failure to successfully complete, the program, or for the successful completion of the program as ordered. The program shall notify the court and the probation department, in writing, within the period of time and in the manner specified by the court of any person who fails to complete the program. Notification shall be given if the program determines that the defendant is performing unsatisfactorily or if the defendant is not benefiting from the education, treatment, or counseling.

SEC. 48. Section 1203.067 of the Penal Code is amended to read:

1203.067. (a) Notwithstanding any other law, before probation may be granted to any person convicted of a felony specified in Section 261, 264.1, 286, 287, 288, 288.5, or 289, or former Section 262 or 288a, who is eligible for probation, the court shall do all of the following:

(1) Order the defendant evaluated pursuant to Section 1203.03, or similar evaluation by the county probation department.

(2) Conduct a hearing at the time of sentencing to determine if probation of the defendant would pose a threat to the victim. The victim shall be notified of the hearing by the prosecuting attorney and given an opportunity to address the court.

(3) Order any psychiatrist or psychologist appointed pursuant to Section 288.1 to include a consideration of the threat to the victim and the defendant's potential for positive response to treatment in making the report to the court. This section does not require the court to order an examination of the victim.

(b) The terms of probation for persons placed on formal probation for an offense that requires registration pursuant to Sections 290 to 290.023, inclusive, shall include all of the following:

(1) A person placed on formal probation prior to July 1, 2012, shall participate in an approved sex offender management program, following the standards developed pursuant to Section 9003, for a period of not less than one year or the remaining term of probation if it is less than one year. The length of the period in the program is to be determined by the certified sex offender management professional in consultation with the probation officer and as approved by the court. Participation in this program applies to every person described without regard to when the person's crime or crimes were committed.

(2) A person placed on formal probation on or after July 1, 2012, shall successfully complete a sex offender management program, following the standards developed pursuant to Section 9003, as a condition of release from probation. The length of the period in the program shall be not less than one year, up to the entire period of probation, as determined by the certified sex offender management professional in consultation with the probation officer and as approved by the court. Participation in this program applies to each person without regard to when the person's crime or crimes were committed.

(3) Waiver of any privilege against self-incrimination and participation in polygraph examinations, which shall be part of the sex offender management program.

(4) Waiver of any psychotherapist-patient privilege to enable communication between the sex offender management professional and supervising probation officer, pursuant to Section 290.09.

(c) A defendant ordered to be placed in an approved sex offender management program pursuant to subdivision (b) shall be responsible for paying the expense of participation in the program as determined by the court. The court shall take into consideration the ability of the defendant to pay, and a defendant shall not be denied probation because of their inability to pay.

SEC. 49. Section 1203.075 of the Penal Code is amended to read:

1203.075. (a) Notwithstanding any other law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within this section be stricken pursuant to Section 1385 for, any person who personally inflicts great bodily injury, as defined in Section 12022.7, on the person of another in the commission or attempted commission of any of the following crimes:

(1) Murder.

(2) Robbery, in violation of Section 211.

(3) Kidnapping, in violation of Section 207, 209, or 209.5.

(4) Lewd or lascivious act, in violation of Section 288.

(5) Burglary of the first degree, as defined in Section 460.

(6) Rape, in violation of Section 261, 264.1, or former Section 262.

(7) Assault with intent to commit a specified sexual offense, in violation of Section 220.

(8) Escape, in violation of Section 4530 or 4532.

(9) Sexual penetration, in violation of Section 289 or 264.1.

(10) Sodomy, in violation of Section 286.

(11) Oral copulation, in violation of Section 287 or former Section 288a.

(12) Carjacking, in violation of Section 215.

(13) Continuous sexual abuse of a child, in violation of Section 288.5.

(14) Aggravated sexual assault of a child, in violation of Section 269.

(b) The existence of any fact that would make a person ineligible for probation under subdivision (a) 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.

SEC. 50. Section 1203.08 of the Penal Code is amended to read:

1203.08. (a) Notwithstanding any other law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, an adult person convicted of a designated felony who has been previously convicted as an adult under charges separately brought and tried two or more times of any designated felony or in any other place of a public offense which, if committed in this state, would have been punishable as a designated felony, if all the convictions occurred within a 10-year period. The 10-year period shall be calculated exclusive of any period of time during which the person has been confined in a state or federal prison.

(b) (1) The existence of any fact that would make a person ineligible for probation under subdivision (a) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the 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.

(2) Except where the existence of the fact was not admitted or found to be true pursuant to paragraph (1), or the court finds that a prior conviction was invalid, the court shall not strike or dismiss any prior convictions alleged in the information or indictment.

(3) This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(c) As used in this section, "designated felony" means any felony specified in Section 187, 192, 207, 209, 209.5, 211, 215, 217, 245, 288, or paragraph (2), (6), or (7) of subdivision (a) of Section 261, paragraph (1), (4), or (5) of subdivision (a) of former Section 262, subdivision (a) of Section 460, or when great bodily injury occurs in perpetration of an assault to commit robbery, mayhem, or rape, as defined in Section 220.

SEC. 51. Section 1203.09 of the Penal Code is amended to read:

1203.09. (a) Notwithstanding any other law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, a person who commits or attempts to commit

one or more of the crimes listed in subdivision (b) against a person who is 60 years of age or older; or against a person who is blind, a paraplegic, a quadriplegic, or a person confined to a wheelchair and that disability is known or reasonably should be known to the person committing the crime; and who during the course of the offense inflicts great bodily injury upon the person.

(b) Subdivision (a) applies to the following crimes:

(1) Murder.

(2) Robbery, in violation of Section 211.

(3) Kidnapping, in violation of Section 207.

(4) Kidnapping, in violation of Section 209.

(5) Burglary of the first degree, as defined in Section 460.

(6) Rape by force or violence, in violation of paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of former Section 262.

(7) Assault with intent to commit rape or sodomy, in violation of Section 220.

(8) Carjacking, in violation of Section 215.

(9) Kidnapping, in violation of Section 209.5.

(c) The existence of any fact that would make a person ineligible for probation under either subdivision (a) or (f) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the 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) As used in this section, "great bodily injury" has the same meaning as defined in Section 12022.7.

(e) This section shall apply in all cases, including those cases where the infliction of great bodily injury is an element of the offense.

(f) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, a person convicted of having committed one or more of the following crimes against a person who is 60 years of age or older: assault with a deadly weapon or instrument, battery that results in physical injury that requires professional medical treatment, carjacking, robbery, or mayhem.

SEC. 52. Section 1270.1 of the Penal Code is amended to read:

1270.1. (a) Except as provided in subdivision (e), before a person who is arrested for any of the following crimes may be released on bail in an amount that is either more or less than the amount contained in the schedule of bail for the offense, or may be released on the person's own recognizance, a hearing shall be held in open court before the magistrate or judge:

(1) A serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, but not including a violation of subdivision (a) of Section 460 (residential burglary).

(2) A violation of Section 136.1 where punishment is imposed pursuant to subdivision (c) of Section 136.1, Section 273.5 or 422 if the offense is punished as a felony, or Section 646.9.

(3) A violation of paragraph (1) of subdivision (e) of Section 243.

(4) A violation of Section 273.6 if the detained person made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of, the protected party.

(b) The prosecuting attorney and defense attorney shall be given a two-court-day written notice and an opportunity to be heard on the matter. If the detained person does not have counsel, the court shall appoint counsel for purposes of this section only. The hearing required by this section shall be held within the time period prescribed in Section 825.

(c) At the hearing, the court shall consider evidence of past court appearances of the detained person, the maximum potential sentence that could be imposed, and the danger that may be posed to other persons if the detained person is released. In making the determination whether to release the detained person on their own recognizance, the court shall consider the potential danger to other persons, including threats that have been made by the detained person and any past acts of violence. The court shall also consider any evidence offered by the detained person regarding the detained person's ties to the community and ability to post bond.

(d) If the judge or magistrate sets the bail in an amount that is either more or less than the amount contained in the schedule of bail for the offense, the judge or magistrate shall state the reasons for that decision and shall address the issue of threats made against the victim or witness, if they were made, in the record. This statement shall be included in the record.

(e) Notwithstanding subdivision (a), a judge or magistrate, pursuant to Section 1269c, may, with respect to a bailable felony offense or a misdemeanor offense of violating a domestic violence order, increase bail to an amount exceeding that set forth in the bail schedule without a hearing, provided an oral or written declaration of facts justifying the increase is presented under penalty of perjury by a sworn peace officer.

SEC. 53. Section 1346.1 of the Penal Code is amended to read:

1346.1. (a) When a defendant has been charged with a violation of Section 261, if the victim is the spouse of the defendant, or subdivision (a) of Section 273.5, the people may apply for an order that the victim's testimony at the preliminary hearing, in addition to being stenographically recorded, be video recorded and the video recording preserved.

(b) The application for the order shall be in writing and made three days prior to the preliminary hearing.

(c) Upon timely receipt of the application, the magistrate shall order that the testimony of the victim given at the preliminary hearing be taken and preserved as a video recording, in addition to being stenographically recorded. The video recording shall be transmitted to the clerk of the court in which the action is pending.

(d) If the victim's prior testimony given at the preliminary hearing is admissible pursuant to the Evidence Code, then the video recording of that testimony may be introduced as evidence at trial.

SEC. 54. Section 1387 of the Penal Code is amended to read:

1387. (a) An order terminating an action pursuant to this chapter, or Section 859b, 861, 871, or 995, is a bar to any other prosecution for the same offense if it is a felony or if it is a misdemeanor charged together with a felony and the action has been previously terminated pursuant to this chapter, or Section 859b, 861, 871, or 995, or if it is a misdemeanor not charged together with a felony, except in those felony cases, or those cases where a misdemeanor is charged with a felony, where subsequent to the dismissal of the felony or misdemeanor the judge or magistrate finds any of the following:

(1) That substantial new evidence has been discovered by the prosecution that would not have been known through the exercise of due diligence at, or prior to, the time of termination of the action.

(2) That the termination of the action was the result of the direct intimidation of a material witness, as shown by a preponderance of the evidence.

(3) That the termination of the action was the result of the failure to appear by the complaining witness, who had been personally subpoenaed in a prosecution arising under subdivision (e) of Section 243 or Section 273.5 or 273.6, or Section 261, where the complaining witness is the spouse of the defendant. This paragraph shall apply only within six months of the original dismissal of the action, and may be invoked only once in each action. This section does not preclude a defendant from being eligible for diversion.

(4) That the termination of the action was the result of the complaining witness being found in contempt of court as described in subdivision (b) of Section 1219 of the Code of Civil Procedure. This paragraph shall apply only within six months of the original dismissal of the action, and may be invoked only once in each action.

(b) Notwithstanding subdivision (a), an order terminating an action pursuant to this chapter is not a bar to another prosecution for the same offense if it is a misdemeanor charging an offense based on an act of domestic violence, as defined in subdivisions (a) and (b) of Section 13700, and the termination of the action was the result of the failure to appear by the complaining witness, who had been personally subpoenaed. This subdivision shall apply only within six months of the original dismissal of the action, and may be invoked only once in each action. This subdivision does not preclude a defendant from being eligible for diversion.

(c) An order terminating an action is not a bar to prosecution if a complaint is dismissed before the commencement of a preliminary hearing in favor of an indictment filed pursuant to Section 944 and the indictment is based upon the same subject matter as charged in the dismissed complaint, information, or indictment.

However, if the previous termination was pursuant to Section 859b, 861, 871, or 995, the subsequent order terminating an action is not a bar to prosecution if:

(1) Good cause is shown why the preliminary examination was not held within 60 days from the date of arraignment or plea.

(2) The motion pursuant to Section 995 was granted because of any of the following reasons:

(A) Present insanity of the defendant.

(B) A lack of counsel after the defendant elected to self-represent rather than being represented by appointed counsel.

(C) Ineffective assistance of counsel.

(D) Conflict of interest of defense counsel.

(E) Violation of time deadlines based upon unavailability of defense counsel.

(F) Defendant's motion to withdraw a waiver of the preliminary examination.

(3) The motion pursuant to Section 995 was granted after dismissal by the magistrate of the action pursuant to Section 871 and was recharged pursuant to Section 739.

SEC. 55. Section 1524.1 of the Penal Code is amended to read:

1524.1. (a) The primary purpose of the testing and disclosure provided in this section is to benefit the victim of a crime by informing the victim whether the defendant is infected with HIV. It is also the intent of the Legislature in enacting this section to protect the health of both victims of crime and those accused of committing a crime. This section does not authorize mandatory testing or disclosure of test results for the purpose of a charging decision by a prosecutor, and, except as specified in subdivisions (g) and (i), this section does not authorize breach of the confidentiality provisions contained in Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 of the Health and Safety Code.

(b) (1) Notwithstanding the provisions of Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 of the Health and Safety Code, when a defendant has been charged by complaint, information, or indictment with a crime, or a minor is the subject of a petition filed in juvenile court alleging the commission of a crime, the court, at the request of the victim, may issue a search warrant for the purpose of testing the accused's blood or oral mucosal transudate saliva with an HIV test, as defined in Section 120775 of the Health and Safety Code only under the following circumstances: when the court finds, upon the conclusion of the hearing described in paragraph (3), or when a preliminary hearing is not required to be held, that there is probable cause to believe that the accused committed the offense, and that there is probable cause to believe that blood, semen, or any other bodily fluid identified by the State Department of Public Health in

appropriate regulations as capable of transmitting the human immunodeficiency virus has been transferred from the accused to the victim.

(2) Notwithstanding Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 of the Health and Safety Code, when a defendant has been charged by complaint, information, or indictment with a crime under Section 220, 261, 261.5, 264.1, 266c, 269, 286, 287, 288, 288.5, 289, or 289.5, or former Section 262 or 288a, or with an attempt to commit any of the offenses, and is the subject of a police report alleging the commission of a separate, uncharged offense that could be charged under Section 220, 261, 261.5, 264.1, 266c, 269, 286, 287, 288, 288.5, 289, or 289.5, or former Section 262 or 288a, or of an attempt to commit any of the offenses, or a minor is the subject of a petition filed in juvenile court alleging the commission of a crime under Section 220, 261, 261.5, 264.1, 266c, 269, 286, 287, 288, 288.5, 289, or 289.5, or former Section 262 or 288a, or of an attempt to commit any of the offenses, and is the subject of a police report alleging the commission of a separate, uncharged offense that could be charged under Section 220, 261, 261.5, 264.1, 266c, 269, 286, 287, 288, 288.5, 289, or 289.5, or former Section 262 or 288a, or of an attempt to commit any of the offenses, the court, at the request of the victim of the uncharged offense, may issue a search warrant for the purpose of testing the accused's blood or oral mucosal transudate saliva with an HIV test, as defined in Section 120775 of the Health and Safety Code only under the following circumstances: when the court finds that there is probable cause to believe that the accused committed the uncharged offense, and that there is probable cause to believe that blood, semen, or any other bodily fluid identified by the State Department of Public Health in appropriate regulations as capable of transmitting the human immunodeficiency virus has been transferred from the accused to the victim. As used in this paragraph, "Section 289.5" refers to the statute enacted by Chapter 293 of the Statutes of 1991, penetration by an unknown object.

(3) (A) Prior to the issuance of a search warrant pursuant to paragraph (1), the court, where applicable and at the conclusion of the preliminary examination if the defendant is ordered to answer pursuant to Section 872, shall conduct a hearing at which both the victim and the defendant have the right to be present. During the

hearing, only affidavits, counter affidavits, and medical reports regarding the facts that support or rebut the issuance of a search warrant under paragraph (1) shall be admissible.

(B) Prior to the issuance of a search warrant pursuant to paragraph (2), the court, where applicable, shall conduct a hearing at which both the victim and the defendant are present. During the hearing, only affidavits, counter affidavits, and medical reports regarding the facts that support or rebut the issuance of a search warrant under paragraph (2) shall be admissible.

(4) A request for a probable cause hearing made by a victim under paragraph (2) shall be made before sentencing in the superior court, or before disposition on a petition in a juvenile court, of the criminal charge or charges filed against the defendant.

(c) (1) When the person has been charged by complaint, information, or indictment with a crime, or is the subject of a petition filed in a juvenile court alleging the commission of a crime, the prosecutor shall advise the victim of the right to make this request. To assist the victim of the crime to determine whether the victim should make this request, the prosecutor shall refer the victim to the local health officer for prerequest counseling to help that person understand the extent to which the particular circumstances of the crime may or may not have put the victim at risk of transmission of HIV from the accused, to ensure that the victim understands both the benefits and limitations of the current tests for HIV, to help the victim decide whether the victim wants to request that the accused be tested, and to help the victim decide whether the victim wants to be tested.

(2) The Department of Justice, in cooperation with the California District Attorneys Association, shall prepare a form to be used in providing victims with the notice required by paragraph (1).

(d) If the victim decides to request HIV testing of the accused, the victim shall request the issuance of a search warrant, as described in subdivision (b).

Neither the failure of a prosecutor to refer or advise the victim as provided in this subdivision, nor the failure or refusal by the victim to seek or obtain counseling, shall be considered by the court in ruling on the victim's request.

(e) The local health officer shall make provision for administering all HIV tests ordered pursuant to subdivision (b).

(f) Any blood or oral mucosal transudate saliva tested pursuant to subdivision (b) shall be subjected to appropriate confirmatory tests to ensure accuracy of the first test results, and under no circumstances shall test results be transmitted to the victim or the accused unless any initially reactive test result has been confirmed by appropriate confirmatory tests for positive reactors.

(g) The local health officer shall have the responsibility for disclosing test results to the victim who requested the test and to the accused who was tested. However, positive test results shall not be disclosed to the victim or to the accused without also providing or offering professional counseling appropriate to the circumstances.

(h) The local health officer and victim shall comply with all laws and policies relating to medical confidentiality subject to the disclosure authorized by subdivisions (g) and (i). An individual who files a false report of sexual assault in order to obtain test result information pursuant to this section shall, in addition to any other liability under law, be guilty of a misdemeanor punishable as provided in subdivision (c) of Section 120980 of the Health and Safety Code. An individual as described in the preceding sentence who discloses test result information obtained pursuant to this section shall also be guilty of an additional misdemeanor punishable as provided for in subdivision (c) of Section 120980 of the Health and Safety Code for each separate disclosure of that information.

(i) A victim who receives information from the health officer pursuant to subdivision (g) may disclose the test results as the victim deems necessary to protect their health and safety or the health and safety of the victim's family or sexual partner.

(j) A person transmitting test results or disclosing information pursuant to this section shall be immune from civil liability for any actions taken in compliance with this section.

(k) The results of any blood or oral mucosal transudate saliva tested pursuant to subdivision (b) shall not be used in any criminal proceeding as evidence of either guilt or innocence.

SEC. 56. Section 1601 of the Penal Code is amended to read:

1601. (a) When a person charged with and found incompetent on a charge of, convicted of, or found not guilty by reason of insanity of murder, mayhem, aggravated mayhem, a violation of Section 207, 209, or 209.5 in which the victim suffers intentionally

inflicted great bodily injury, robbery or carjacking with a deadly or dangerous weapon or in which the victim suffers great bodily injury, a violation of subdivision (a) or (b) of Section 451, a violation of paragraph (2), (3), or (6) of subdivision (a) of Section 261, a violation of paragraph (1) or (4) of subdivision (a) of former Section 262, a violation of Section 459 in the first degree, a violation of Section 220 in which the victim suffers great bodily injury, a violation of Section 288, a violation of Section 18715, 18725, 18740, 18745, 18750, or 18755, or any felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, outpatient status under this title shall not be available until that person has actually been confined in a state hospital or other treatment facility for 180 days or more after having been committed under the provisions of law specified in Section 1600, unless the court finds a suitable placement, including, but not limited to, an outpatient placement program, that would provide the person with more appropriate mental health treatment and the court finds that the placement would not pose a danger to the health or safety of others, including, but not limited to, the safety of the victim and the victim's family.

(b) When a person charged with, and found incompetent on a charge of, or convicted of, any misdemeanor or any felony other than those described in subdivision (a), or found not guilty of any misdemeanor by reason of insanity, outpatient status under this title may be granted by the court prior to actual confinement in a state hospital or other treatment facility under the provisions of law specified in Section 1600.

SEC. 57. Section 2933.5 of the Penal Code is amended to read:

2933.5. (a) (1) Notwithstanding any other law, a person who is convicted of any felony offense listed in paragraph (2), and who previously has been convicted two or more times, on charges separately brought and tried, and who previously has served two or more separate prior prison terms, as defined in subdivision (g) of Section 667.5, of any offense or offenses listed in paragraph (2), shall be ineligible to earn credit on the person's term of imprisonment pursuant to this article.

(2) As used in this subdivision, "felony offense" includes any of the following:

(A) Murder, as defined in Sections 187 and 189.

(B) Voluntary manslaughter, as defined in subdivision (a) of Section 192.

(C) Mayhem, as defined in Section 203.

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

(E) Kidnapping, as defined in Section 207, 209, or 209.5.

(F) Assault with vitriol, corrosive acid, or caustic chemical of any nature, as described in Section 244.

(G) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of former Section 262.

(H) Sodomy by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, as described in subdivision (c) of Section 286.

(I) Sodomy while voluntarily acting in concert, as described in subdivision (d) of Section 286.

(J) Lewd or lascivious acts on a child under 14 years of age, as described in subdivision (b) of Section 288.

(K) Oral copulation by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, as described in subdivision (c) of Section 287 or of former Section 288a.

(L) Continuous sexual abuse of a child, as described in Section 288.5.

(M) Sexual penetration, as described in subdivision (a) of Section 289.

(N) Exploding a destructive device or explosive with intent to injure, as described in Section 18740, with intent to murder, as described in Section 18745, or resulting in great bodily injury or mayhem, as described in Section 18750.

(O) Any felony in which the defendant personally inflicted great bodily injury, as provided in Section 12022.53 or 12022.7.

(b) A prior conviction of an offense listed in subdivision (a) shall include a conviction in another jurisdiction for an offense that includes all of the elements of the particular felony as defined under California law.

(c) This section shall apply whenever the present felony is committed on or after the effective date of this section, regardless of the date of commission of the prior offense or offenses resulting in credit-earning ineligibility.

(d) This section shall be in addition to, and shall not preclude the imposition of, any applicable sentence enhancement terms, or probation ineligibility and habitual offender provisions authorized under any other section.

SEC. 58. Section 2962 of the Penal Code is amended to read:

2962. As a condition of parole, a prisoner who meets the following criteria shall be provided necessary treatment by the State Department of State Hospitals as follows:

(a) (1) The prisoner has a severe mental health disorder that is not in remission or that cannot be kept in remission without treatment.

(2) The term "severe mental health disorder" means an illness, disease, or condition that substantially impairs the person's thought, perception of reality, emotional process, or judgment; or that grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. The term "severe mental health disorder," as used in this section, does not include a personality or adjustment disorder, epilepsy, intellectual disability or other developmental disabilities, or addiction to or abuse of intoxicating substances.

(3) The term "remission" means a finding that the overt signs and symptoms of the severe mental health disorder are controlled either by psychotropic medication or psychosocial support. A person "cannot be kept in remission without treatment" if during the year prior to the question being before the Board of Parole Hearings or a trial court, the person has been in remission and has been physically violent, except in self-defense, or has made a serious threat of substantial physical harm upon the person of another so as to cause the target of the threat to reasonably fear for their safety or the safety of their immediate family, or the person has intentionally caused property damage, or has not voluntarily followed the treatment plan. In determining if a person has voluntarily followed the treatment plan, the standard is whether the person has acted as a reasonable person would in following the treatment plan.

(b) The severe mental health disorder was one of the causes of, or was an aggravating factor in, the commission of a crime for which the prisoner was sentenced to prison.

(c) The prisoner has been in treatment for the severe mental health disorder for 90 days or more within the year prior to the prisoner's parole or release.

(d) (1) Prior to release on parole, the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the State Department of State Hospitals have evaluated the prisoner at a facility of the Department of Corrections and Rehabilitation, and a chief psychiatrist of the Department of Corrections and Rehabilitation has certified to the Board of Parole Hearings that the prisoner has a severe mental health disorder, that the disorder is not in remission or cannot be kept in remission without treatment, that the severe mental health disorder was one of the causes or was an aggravating factor in the prisoner's criminal behavior, that the prisoner has been in treatment for the severe mental health disorder for 90 days or more within the year prior to the prisoner's parole release day, and that by reason of the prisoner's severe mental health disorder, the prisoner represents a substantial danger of physical harm to others.

(A) For prisoners being treated by the State Department of State Hospitals pursuant to Section 2684, the certification shall be by a chief psychiatrist of the Department of Corrections and Rehabilitation, and the evaluation shall be conducted at a state hospital by the person at the state hospital in charge of treating the prisoner and a practicing psychiatrist or psychologist from the Department of Corrections and Rehabilitation.

(B) For the evaluation of Department of Corrections and Rehabilitation prisoners who are temporarily housed at a county correctional facility, a county medical facility, or a state-assigned mental health provider, a practicing psychiatrist or psychologist from the State Department of State Hospitals, the Department of Corrections and Rehabilitation, or the Board of Parole Hearings shall be afforded prompt and unimpeded access to the prisoner and their records for the period of confinement at that facility upon submission of current and valid proof of state employment and a departmental letter or memorandum arranging the appointment.

(2) If the professionals doing the evaluation pursuant to paragraph (1) do not concur that (A) the prisoner has a severe mental health disorder, (B) that the disorder is not in remission or cannot be kept in remission without treatment, or (C) that the severe mental health disorder was a cause of, or aggravated, the prisoner's

criminal behavior, and a chief psychiatrist has certified the prisoner to the Board of Parole Hearings pursuant to this paragraph, the Board of Parole Hearings shall order a further examination by two independent professionals, as provided for in Section 2978.

(3) If at least one of the independent professionals who evaluate the prisoner pursuant to paragraph (2) concurs with the chief psychiatrist's certification of the issues described in paragraph (2), this subdivision shall be applicable to the prisoner. The professionals appointed pursuant to Section 2978 shall inform the prisoner that the purpose of their examination is not treatment, but to determine if the prisoner meets certain criteria to be involuntarily treated as an offender with a mental health disorder. It is not required that the prisoner appreciate or understand that information.

(e) The crime referred to in subdivision (b) meets both of the following criteria:

(1) The defendant received a determinate sentence pursuant to Section 1170 for the crime.

(2) The crime is one of the following:

(A) Voluntary manslaughter.

(B) Mayhem.

(C) Kidnapping in violation of Section 207.

(D) A robbery wherein it was charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that robbery.

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

(F) Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of former Section 262.

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

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

(I) Lewd acts on a child under 14 years of age in violation of Section 288.

(J) Continuous sexual abuse in violation of Section 288.5.

(K) The offense described in subdivision (a) of Section 289 if the act was accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(L) Arson in violation of subdivision (a) of Section 451, or arson in violation of any other provision of Section 451 or in violation of Section 455 if the act posed a substantial danger of physical harm to others.

(M) A felony in which the defendant used a firearm which use was charged and proved as provided in Section 12022.5, 12022.53, or 12022.55.

(N) A violation of Section 18745.

(O) Attempted murder.

(P) A crime not enumerated in subparagraphs (A) to (O), inclusive, in which the prisoner used force or violence, or caused serious bodily injury as defined in paragraph (4) of subdivision (f) of Section 243.

(Q) A crime in which the perpetrator expressly or impliedly threatened another with the use of force or violence likely to produce substantial physical harm in a manner that a reasonable person would believe and expect that the force or violence would be used. For purposes of this subparagraph, substantial physical harm does not require proof that the threatened act was likely to cause great or serious bodily injury.

(f) For purposes of meeting the criteria set forth in this section, the existence or nature of the crime, as defined in paragraph (2) of subdivision (e), for which the prisoner has been convicted may be shown with documentary evidence. The details underlying the commission of the offense that led to the conviction, including the use of force or violence, causing serious bodily injury, or the threat to use force or violence likely to produce substantial physical harm, may be shown by documentary evidence, including, but not limited to, preliminary hearing transcripts, trial transcripts, probation and sentencing reports, and evaluations by the State Department of State Hospitals.

(g) As used in this chapter, "substantial danger of physical harm" does not require proof of a recent overt act.

SEC. 59. Section 3000 of the Penal Code is amended to read:

3000. (a) (1) The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the effective supervision of and surveillance of parolees, including the judicious use of revocation actions, and to provide educational, vocational, family, and personal counseling necessary to assist parolees in the transition between imprisonment and discharge. A sentence resulting in imprisonment in the state prison pursuant to Section 1168 or 1170 shall include a period of parole supervision or postrelease community supervision, unless waived, or as otherwise provided in this article.

(2) The Legislature finds and declares that it is not the intent of this section to diminish resources allocated to the Department of Corrections and Rehabilitation for parole functions for which the department is responsible. It is also not the intent of this section to diminish the resources allocated to the Board of Parole Hearings to execute its duties with respect to parole functions for which the board is responsible.

(3) The Legislature finds and declares that diligent effort must be made to ensure that parolees are held accountable for their criminal behavior, including, but not limited to, the satisfaction of restitution fines and orders.

(4) For any person subject to a sexually violent predator proceeding pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, an order issued by a judge pursuant to Section 6601.5 of the Welfare and Institutions Code, finding that the petition, on its face, supports a finding of probable cause to believe that the individual named in the petition is likely to engage in sexually violent predatory criminal behavior upon release, shall toll the period of parole of that person, from the date that person is released by the Department of Corrections and Rehabilitation as follows:

(A) If the person is committed to the State Department of State Hospitals as a sexually violent predator and subsequently a court orders that the person be unconditionally discharged, the parole period shall be tolled until the date the judge enters the order unconditionally discharging that person.

(B) If the person is not committed to the State Department of State Hospitals as a sexually violent predator, the tolling of the

parole period shall be abrogated and the parole period shall be deemed to have commenced on the date of release from the Department of Corrections and Rehabilitation.

(5) Paragraph (4) applies to persons released by the Department of Corrections and Rehabilitation on or after January 1, 2012. Persons released by the Department of Corrections and Rehabilitation prior to January 1, 2012, shall continue to be subject to the law governing the tolling of parole in effect on December 31, 2011.

(b) Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter, the following shall apply to any inmate subject to Section 3000.08:

(1) In the case of an inmate sentenced under Section 1168 for a crime committed prior to July 1, 2013, the period of parole shall not exceed five years in the case of an inmate imprisoned for any offense other than first or second degree murder for which the inmate has received a life sentence, and shall not exceed three years in the case of any other inmate, unless in either case the Board of Parole Hearings for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall also be applicable to inmates who committed crimes prior to July 1, 1977, to the extent specified in Section 1170.2. In the case of any inmate sentenced under Section 1168 for a crime committed on or after July 1, 2013, the period of parole shall not exceed five years in the case of an inmate imprisoned for any offense other than first or second degree murder for which the inmate has received a life sentence, and shall not exceed three years in the case of any other inmate, unless in either case the department for good cause waives parole and discharges the inmate from custody of the department.

(2) (A) For a crime committed prior to July 1, 2013, at the expiration of a term of imprisonment of 1 year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931 or 2933, if applicable, the inmate shall be released on parole for a period not exceeding 3 years, except that any inmate sentenced for an offense specified in paragraph (3), (4), (5), (6), (11), or (18) of subdivision (c) of Section 667.5 shall be released on parole for a period not exceeding 10 years, unless a longer period of parole is specified in Section 3000.1.

(B) For a crime committed on or after July 1, 2013, at the expiration of a term of imprisonment of 1 year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931 or 2933, if applicable, the inmate shall be released on parole for a period of 3 years, except that any inmate sentenced for an offense specified in paragraph (3), (4), (5), (6), (11), or (18) of subdivision (c) of Section 667.5 shall be released on parole for a period of 10 years, unless a longer period of parole is specified in Section 3000.1.

(3) Notwithstanding paragraphs (1) and (2), in the case of any offense for which the inmate has received a life sentence pursuant to subdivision (b) of Section 209, with the intent to commit a specified sex offense, or Section 667.51, 667.61, or 667.71, the period of parole shall be 10 years, unless a longer period of parole is specified in Section 3000.1.

(4) (A) Notwithstanding paragraphs (1) to (3), inclusive, in the case of a person convicted of and required to register as a sex offender for the commission of an offense specified in Section 261, 264.1, 286, 287, paragraph (1) of subdivision (b) of Section 288, Section 288.5 or 289, or former Section 262 or 288a, in which one or more of the victims of the offense was a child under 14 years of age, the period of parole shall be 20 years and six months unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of this determination and transmit a copy of it to the parolee.

(B) In the event of a retention on parole, the parolee shall be entitled to a review by the board each year thereafter.

(C) There shall be a board hearing consistent with the procedures set forth in Sections 3041.5 and 3041.7 within 12 months of the date of any revocation of parole to consider the release of the inmate on parole, and notwithstanding the provisions of paragraph (3) of subdivision (b) of Section 3041.5, there shall be annual parole consideration hearings thereafter, unless the person is released or otherwise ineligible for parole release. The panel or board shall release the person within one year of the date of the revocation unless it determines that the circumstances and gravity of the parole violation are such that consideration of the public safety requires a more lengthy period of incarceration or unless there is a new prison commitment following a conviction.

(D) The provisions of Section 3042 shall not apply to any hearing held pursuant to this subdivision.

(5) (A) The Board of Parole Hearings shall consider the request of any inmate whose commitment offense occurred prior to July 1, 2013, regarding the length of parole and the conditions thereof.

(B) For an inmate whose commitment offense occurred on or after July 1, 2013, except for those inmates described in Section 3000.1, the department shall consider the request of the inmate regarding the length of parole and the conditions thereof. For those inmates described in Section 3000.1, the Board of Parole Hearings shall consider the request of the inmate regarding the length of parole and the conditions thereof.

(6) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under paragraph (1), (2), (3), or (4), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and paragraphs (1), (2), (3), and (4) shall be computed from the date of initial parole and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward any period of parole unless the prisoner is found not guilty of the parole violation. However, the period of parole is subject to the following:

(A) Except as provided in Section 3064, in no case may a prisoner subject to three years on parole be retained under parole supervision or in custody for a period longer than four years from the date of the initial parole.

(B) Except as provided in Section 3064, in no case may a prisoner subject to five years on parole be retained under parole supervision or in custody for a period longer than seven years from the date of the initial parole.

(C) Except as provided in Section 3064, in no case may a prisoner subject to 10 years on parole be retained under parole supervision or in custody for a period longer than 15 years from the date of the initial parole.

(7) The Department of Corrections and Rehabilitation shall meet with each inmate at least 30 days prior to the inmate's good time release date and shall provide, under guidelines specified by the parole authority or the department, whichever is applicable, the

conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the department or the parole authority, whichever is applicable. The Department of Corrections and Rehabilitation or the board may impose as a condition of parole that a prisoner make payments on the prisoner's outstanding restitution fines or orders imposed pursuant to subdivision (a) or (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (b) or (f) of Section 1202.4.

(8) For purposes of this chapter, and except as otherwise described in this section, the board shall be considered the parole authority.

(9) (A) On and after July 1, 2013, the sole authority to issue warrants for the return to actual custody of any state prisoner released on parole rests with the court pursuant to Section 1203.2, except for any escaped state prisoner or any state prisoner released prior to the prisoner's scheduled release date who should be returned to custody, and Section 5054.1 shall apply.

(B) Notwithstanding subparagraph (A), any warrant issued by the Board of Parole Hearings prior to July 1, 2013, shall remain in full force and effect until the warrant is served or it is recalled by the board. All prisoners on parole arrested pursuant to a warrant issued by the board shall be subject to a review by the board prior to the department filing a petition with the court to revoke the parole of the petitioner.

(10) It is the intent of the Legislature that efforts be made with respect to persons who are subject to Section 290.011 who are on parole to engage them in treatment.

SEC. 60. Section 3053.8 of the Penal Code is amended to read:

3053.8. (a) Notwithstanding any other law, when a person is released on parole after having served a term of imprisonment for any of the offenses specified in subdivision (b) in which one or more of the victims was under 14 years of age, and for which registration is required pursuant to the Sex Offender Registration Act, it shall be a condition of parole that the person may not, during the period of parole, enter a park where children regularly gather without the express permission of the person's parole agent.

(b) Subdivision (a) shall apply to persons released on parole after having served a term of imprisonment for an offense specified

in Section 261, 264.1, 269, 286, 287, 288.5, 288.7, or 289, paragraph (1) of subdivision (b) of Section 288, subdivision (c) of Section 667.51, subdivision (j), (k), or (*l*) of Section 667.61, Section 667.71, or former Section 262 or 288a.

SEC. 61. Section 3057 of the Penal Code is amended to read:

3057. (a) Confinement pursuant to a revocation of parole in the absence of a new conviction and commitment to prison under other provisions of law, shall not exceed 12 months, except as provided in subdivision (c).

(b) Upon completion of confinement pursuant to parole revocation without a new commitment to prison, the inmate shall be released on parole for a period that shall not extend beyond that portion of the maximum statutory period of parole specified by Section 3000 which was unexpired at the time of each revocation.

(c) Notwithstanding the limitations in subdivision (a) and in Section 3060.5 upon confinement pursuant to a parole revocation, the parole authority may extend the confinement pursuant to parole revocation for a maximum of an additional 12 months for subsequent acts of misconduct committed by the parolee while confined pursuant to that parole revocation. Upon a finding of good cause to believe that a parolee has committed a subsequent act of misconduct and utilizing procedures governing parole revocation proceedings, the parole authority may extend the period of confinement pursuant to parole revocation as follows: (1) not more than 180 days for an act punishable as a felony, whether or not prosecution is undertaken, (2) not more than 90 days for an act punishable as a misdemeanor, whether or not prosecution is undertaken, and (3) not more than 30 days for an act defined as a serious disciplinary offense pursuant to subdivision (a) of Section 2932.

(d) (1) Except for parolees specified in paragraph (2), any revocation period imposed under subdivision (a) may be reduced in the same manner and to the same extent as a term of imprisonment may be reduced by worktime credits under Section 2933. Worktime credit shall be earned and may be forfeited pursuant to the provisions of Section 2932.

Worktime credit forfeited shall not be restored.

(2) The following parolees shall not be eligible for credit under this subdivision:

(A) Parolees who are sentenced under Section 1168 with a maximum term of life imprisonment.

(B) Parolees who violated a condition of parole relating to association with specified persons, entering prohibited areas, attendance at parole outpatient clinics, or psychiatric attention.

(C) Parolees who were revoked for conduct described in, or that could be prosecuted under any of the following sections, whether or not prosecution is undertaken: Section 189, Section 191.5, subdivision (a) of Section 192, subdivision (a) of Section 192.5, Section 203, 207, 211, 215, 217.1, or 220, subdivision (b) of Section 241, Section 244, paragraph (1) or (2) of subdivision (a) of Section 245, paragraph (2) or (6) of subdivision (a) of Section 261, paragraph (1) or (4) of subdivision (a) of former Section 262, Section 264.1, subdivision (c) or (d) of Section 286, subdivision (c) or (d) of Section 287 or of former Section 288a, Section 288, subdivision (a) of Section 289, 347, or 404, subdivision (a) of Section 451, Section 12022, 12022.5, 12022.53, 12022.7, 12022.8, or 25400, Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, any provision listed in Section 16590, or Section 664 for any attempt to engage in conduct described in or that could be prosecuted under any of the above-mentioned sections.

(D) Parolees who were revoked for any reason if they had been granted parole after conviction of any of the offenses specified in subparagraph (C).

(E) Parolees who the parole authority finds at a revocation hearing to be unsuitable for reduction of the period of confinement because of the circumstances and gravity of the parole violation, or because of prior criminal history.

(e) Commencing October 1, 2011, this section shall only apply to inmates sentenced to a term of life imprisonment or parolees that on or before September 30, 2011, are pending a final adjudication of a parole revocation charge and subject to subdivision (c) of Section 3000.09.

SEC. 62. Section 11105.3 of the Penal Code is amended to read:

11105.3. (a) Notwithstanding any other law, a human resource agency or an employer may request from the Department of Justice records of all convictions or any arrest pending adjudication involving the offenses specified in subdivision (a) of Section 15660

of the Welfare and Institutions Code of a person who applies for a license, employment, or volunteer position, in which they would have supervisory or disciplinary power over a minor or any person under their care. The department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(b) A request for records under subdivision (a) shall include the applicant's fingerprints, which may be taken by the requester, and any other data specified by the department. The department shall not require the applicant's residence address for any request for records pursuant to subdivision (a). The request shall be on a form approved by the department, and the department may charge a fee to be paid by the employer, human resource agency, or applicant for the actual cost of processing the request. However, a fee shall not be charged to a nonprofit organization. Requests received by the department for federal level criminal offender record information shall be forwarded to the Federal Bureau of Investigation by the department to be searched for any record of arrests or convictions.

(c) (1) When a request pursuant to this section reveals that a prospective employee or volunteer has been convicted of a violation or attempted violation of Section 220, 261.5, 273a, 273d, or 273.5, former Section 262, or any sex offense listed in Section 290, except for the offense specified in subdivision (d) of Section 243.4, and where the agency or employer hires the prospective employee or volunteer, the agency or employer shall notify the parents or guardians of any minor who will be supervised or disciplined by the employee or volunteer. A conviction for a violation or attempted violation of an offense committed outside the State of California shall be included in this notice if the offense would have been a crime specified in this subdivision if committed in California. The notice shall be given to the parents or guardians with whom the child resides, and shall be given at least 10 days prior to the day that the employee or volunteer begins their duties or tasks. Notwithstanding any other law, a person who conveys or receives information in good faith and in conformity with this section is exempt from prosecution under Section 11142 or 11143 for conveying or receiving that information. Notwithstanding subdivision (d), the notification requirements of this subdivision shall apply as an additional requirement of any other law requiring

criminal record access or dissemination of criminal history information.

(2) The notification requirement pursuant to paragraph (1) shall not apply to a misdemeanor conviction. This paragraph does not preclude an employer from requesting records of misdemeanor convictions from the Department of Justice pursuant to this section.

(d) This section does not supersede any law requiring criminal record access or dissemination of criminal history information. In any conflict with another statute, dissemination of criminal history information shall be pursuant to the mandatory statute. This subdivision applies to, but is not limited to, requirements pursuant to Article 1 (commencing with Section 1500) of Chapter 3 of, and Chapter 3.2 (commencing with Section 1569) and Chapter 3.4 (commencing with Section 1596.70) of, Division 2 of, and Section 1522 of, the Health and Safety Code, and Sections 8712, 8811, and 8908 of the Family Code, and Section 16519.5 of the Welfare and Institutions Code.

(e) The department may adopt regulations to implement the provisions of this section as necessary.

(f) As used in this section, "employer" means any nonprofit corporation or other organization specified by the Attorney General that employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(g) As used in this section, "human resource agency" means a public or private entity, excluding any agency responsible for licensing of facilities pursuant to the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500)), the California Residential Care Facilities for the Elderly Act (Chapter 3.2 (commencing with Section 1569)), Chapter 3.01 (commencing with Section 1568.01), and the California Child Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70)) of Division 2 of the Health and Safety Code, responsible for determining the character and fitness of a person who is:

(1) Applying for a license, employment, or as a volunteer within the human services field that involves the care and security of children, the elderly, the handicapped, or the mentally impaired.

(2) Applying to be a volunteer who transports individuals impaired by drugs or alcohol.

(3) Applying to adopt a child or to be a foster parent.

(h) Except as provided in subdivision (c), criminal history information obtained pursuant to this section is confidential and a recipient shall not disclose its contents other than for the purpose for which it was acquired.

(i) As used in this subdivision, "community youth athletic program" means an employer having as its primary purpose the promotion or provision of athletic activities for youth under 18 years of age.

(i) (1) A community youth athletic program may request state and federal level criminal history information pursuant to subdivision (a) for a volunteer coach or hired coach candidate. The director of the community youth athletic program shall be the custodian of records.

(2) The community youth athletic program may request from the Department of Justice subsequent arrest notification service, as provided in Section 11105.2, for a volunteer coach or a hired coach candidate.

(3) As used in this subdivision, "community youth athletic program" means an employer having as its primary purpose the promotion or provision of athletic activities for youth under 18 years of age.

(j) Compliance with this section does not remove or limit the liability of a mandated reporter pursuant to Section 11166.

SEC. 63. Section 11160 of the Penal Code is amended to read:

11160. (a) A health practitioner, as defined in subdivision (a) of Section 11162.5, employed by a health facility, clinic, physician's office, local or state public health department, local government agency, or a clinic or other type of facility operated by a local or state public health department who, in the health practitioner's professional capacity or within the scope of the health practitioner's employment, provides medical services for a physical condition to a patient whom the health practitioner knows or reasonably suspects is a person described as follows, shall immediately make a report in accordance with subdivision (b):

(1) A person suffering from a wound or other physical injury inflicted by the person's own act or inflicted by another where the injury is by means of a firearm.

(2) A person suffering from a wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct.

(b) A health practitioner, as defined in subdivision (a) of Section 11162.5, employed by a health facility, clinic, physician's office, local or state public health department, local government agency, or a clinic or other type of facility operated by a local or state public health department shall make a report regarding persons described in subdivision (a) to a local law enforcement agency as follows:

(1) A report by telephone shall be made immediately or as soon as practically possible.

(2) A written report shall be prepared on the standard form developed in compliance with paragraph (4), and adopted by the Office of Emergency Services, or on a form developed and adopted by another state agency that otherwise fulfills the requirements of the standard form. The completed form shall be sent to a local law enforcement agency within two working days of receiving the information regarding the person.

(3) A local law enforcement agency shall be notified and a written report shall be prepared and sent pursuant to paragraphs (1) and (2) even if the person who suffered the wound, other injury, or assaultive or abusive conduct has expired, regardless of whether or not the wound, other injury, or assaultive or abusive conduct was a factor contributing to the death, and even if the evidence of the conduct of the perpetrator of the wound, other injury, or assaultive or abusive conduct was discovered during an autopsy.

(4) The report shall include, but shall not be limited to, the following:

(A) The name of the injured person, if known.

(B) The injured person's whereabouts.

(C) The character and extent of the person's injuries.

(D) The identity of any person the injured person alleges inflicted the wound, other injury, or assaultive or abusive conduct upon the injured person.

(c) For the purposes of this section, "injury" does not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.

(d) For the purposes of this section, "assaultive or abusive conduct" includes any of the following offenses:

(1) Murder, in violation of Section 187.

(2) Manslaughter, in violation of Section 192 or 192.5.

(3) Mayhem, in violation of Section 203.

(4) Aggravated mayhem, in violation of Section 205.

(5) Torture, in violation of Section 206.

(6) Assault with intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220.

(7) Administering controlled substances or anesthetic to aid in commission of a felony, in violation of Section 222.

(8) Battery, in violation of Section 242.

(9) Sexual battery, in violation of Section 243.4.

(10) Incest, in violation of Section 285.

(11) Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure, in violation of Section 244.

(12) Assault with a stun gun or taser, in violation of Section 244.5.

(13) Assault with a deadly weapon, firearm, assault weapon, or machinegun, or by means likely to produce great bodily injury, in violation of Section 245.

(14) Rape, in violation of Section 261 or former Section 262.

(15) Procuring a person to have sex with another person, in violation of Section 266, 266a, 266b, or 266c.

(16) Child abuse or endangerment, in violation of Section 273a or 273d.

(17) Abuse of spouse or cohabitant, in violation of Section 273.5.

(18) Sodomy, in violation of Section 286.

(19) Lewd and lascivious acts with a child, in violation of Section 288.

(20) Oral copulation, in violation of Section 287 or former Section 288a.

(21) Sexual penetration, in violation of Section 289.

(22) Elder abuse, in violation of Section 368.

(23) An attempt to commit any crime specified in paragraphs (1) to (22), inclusive.

(e) When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of violence that is required to be reported pursuant to this section, and when there is an agreement among these persons to report as a team, the team may select by mutual agreement a member of the team to make a report by telephone and a single written report, as required by subdivision (b). The written report

shall be signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(f) The reporting duties under this section are individual, except as provided in subdivision (e).

(g) A supervisor or administrator shall not impede or inhibit the reporting duties required under this section and a person making a report pursuant to this section shall not be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established, except that these procedures shall not be inconsistent with this article. The internal procedures shall not require an employee required to make a report under this article to disclose the employee's identity to the employer.

(h) For the purposes of this section, it is the Legislature's intent to avoid duplication of information.

(i) For purposes of this section only, "employed by a local government agency" includes an employee of an entity under contract with a local government agency to provide medical services.

SEC. 64. Section 12022.3 of the Penal Code is amended to read:

12022.3. For each violation of Section 220 involving a specified sexual offense, or for each violation or attempted violation of Section 261, 264.1, 286, 287, 288, or 289, or former Section 262 or 288a, and in addition to the sentence provided, a person shall receive the following:

(a) A 3-, 4-, or 10-year enhancement if the person uses a firearm or a deadly weapon in the commission of the violation.

(b) A one-, two-, or five-year enhancement if the person is armed with a firearm or a deadly weapon.

SEC. 65. 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 former Section 262 (rape).

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

(10) Section 286 (sodomy).

(11) Section 287 or former Section 288a (oral copulation).

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

(13) Section 289 (sexual penetration).

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

(15) Section 4501 (assault by a prisoner).

(16) Section 4503 (holding a hostage by a prisoner).

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

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

(b) Notwithstanding any other law, a 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 law, a 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 law, a person who, in the commission of a felony specified in subdivision (a), Section 246, or subdivision (c) or (d) of Section 26100, personally and intentionally discharges a firearm and proximately causes great bodily injury, as defined in Section 12022.7, or death, to a 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.

(e) (1) The enhancements provided in this section shall apply to any person who is a principal in the commission of an offense 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 law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, a person found to come within the provisions of this section.

(h) The court may, in the interest of justice pursuant to Section 1385 and at the time of sentencing, strike or dismiss an enhancement otherwise required to be imposed by this section. The authority provided by this subdivision applies to any resentencing that may occur pursuant to any other law.

(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 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 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 Sections 18000 and 18005.

(*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.

SEC. 66. Section 12022.8 of the Penal Code is amended to read:

12022.8. A person who inflicts great bodily injury, as defined in Section 12022.7, on a victim in a violation of Section 220 involving a specified sexual offense, or a violation or attempted violation of paragraph (2), (3), or (6) of subdivision (a) of Section 261, paragraph (1), (2), or (4) of subdivision (a) of former Section 262, Section 264.1, subdivision (b) of Section 288, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person as provided in Section 286 or 287, or former Section 288a, shall receive a five-year enhancement for each violation in addition to the sentence provided for the felony conviction.

SEC. 67. Section 12022.85 of the Penal Code is amended to read:

12022.85. (a) A person who violates one or more of the offenses listed in subdivision (b) with knowledge that the person has acquired immune deficiency syndrome (AIDS) or with the knowledge that the person carries antibodies of the human immunodeficiency virus at the time of the commission of those offenses shall receive a three-year enhancement for each violation in addition to the sentence provided under those sections.

(b) Subdivision (a) applies to the following crimes:

(1) Rape in violation of Section 261 or former Section 262.

(2) Unlawful intercourse with a person under 18 years of age in violation of Section 261.5.

(3) Sodomy in violation of Section 286.

(4) Oral copulation in violation of Section 287 or former Section 288a.

(c) For purposes of proving the knowledge requirement of this section, the prosecuting attorney may use test results received under subdivision (c) of Section 1202.1 or subdivision (g) of Section 1202.6.

SEC. 68. Section 13701 of the Penal Code is amended to read:

13701. (a) Every law enforcement agency in this state shall develop, adopt, and implement written policies and standards for officers' responses to domestic violence calls by January 1, 1986. These policies shall reflect that domestic violence is alleged criminal conduct. Further, they shall reflect existing policy that a request for assistance in a situation involving domestic violence is the same as any other request for assistance where violence has occurred.

(b) The written policies shall encourage the arrest of domestic violence offenders if there is probable cause that an offense has been committed. These policies also shall require the arrest of an offender, absent exigent circumstances, if there is probable cause that a protective order issued under Chapter 4 (commencing with Section 2040) of Part 1 of Division 6, Division 10 (commencing with Section 6200), or Chapter 6 (commencing with Section 7700) of Part 3 of Division 12, of the Family Code, or Section 136.2 of this code, or by a court of any other state, a commonwealth, territory, or insular possession subject to the jurisdiction of the United States, a military tribunal, or a tribe has been violated. These policies shall discourage, when appropriate, but not prohibit, dual arrests. Peace officers shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person determined to be the most significant, rather than the first, aggressor. In identifying the dominant aggressor, an officer shall consider the intent of the law to protect victims of domestic violence from continuing abuse, the threats creating fear of physical injury, the history of domestic violence between the persons involved, and whether either person acted in self-defense. Notwithstanding subdivision (d), law enforcement agencies shall

develop these policies with the input of local domestic violence agencies.

(c) These existing local policies and those developed shall be in writing and shall be available to the public upon request and shall include specific standards for the following:

(1) Felony arrests.

(2) Misdemeanor arrests.

(3) Use of citizen arrests.

(4) Verification and enforcement of temporary restraining orders when (A) the suspect is present and (B) the suspect has fled.

(5) Verification and enforcement of stay-away orders.

(6) Cite and release policies.

(7) Emergency assistance to victims, such as medical care, transportation to a shelter or to a hospital for treatment when necessary, and police standbys for removing personal property and assistance in safe passage out of the victim's residence.

(8) Assisting victims in pursuing criminal options, such as giving the victim the report number and directing the victim to the proper investigation unit.

(9) Furnishing written notice to victims at the scene, including, but not limited to, all of the following information:

(A) A statement informing the victim that despite official restraint of the person alleged to have committed domestic violence, the restrained person may be released at any time.

(B) A statement that, "For further information about a shelter you may contact ____."

(C) A statement that, "For information about other services in the community, where available, you may contact ____."

(D) A statement that, "For information about the California Victims' Compensation Program, you may contact 1-800-777-9229."

(E) A statement informing the victim of domestic violence that the victim may ask the district attorney to file a criminal complaint.

(F) A statement informing the victim of the right to go to the superior court and file a petition requesting any of the following orders for relief:

(i) An order restraining the attacker from abusing the victim and other family members.

(ii) An order directing the attacker to leave the household.

(iii) An order preventing the attacker from entering the residence, school, business, or place of employment of the victim.

(iv) An order awarding the victim or the other parent custody of or visitation with a minor child or children.

(v) An order restraining the attacker from molesting or interfering with minor children in the custody of the victim.

(vi) An order directing the party not granted custody to pay support of minor children, if that party has a legal obligation to do so.

(vii) An order directing the defendant to make specified debit payments coming due while the order is in effect.

(viii) An order directing that either or both parties participate in counseling.

(G) A statement informing the victim of the right to file a civil suit for losses suffered as a result of the abuse, including medical expenses, loss of earnings, and other expenses for injuries sustained and damage to property, and any other related expenses incurred by the victim or any agency that shelters the victim.

(H) In the case of an alleged violation of subdivision (e) of Section 243 or Section 261, 261.5, 273.5, 286, 287, or 289, or former Section 262 or 288a, a "Victims of Domestic Violence" card which shall include, but is not limited to, the following information:

(i) The names and phone numbers of or local county hotlines for, or both the phone numbers of and local county hotlines for, local shelters for victims of domestic violence and rape victim counseling centers within the county, including those centers specified in Section 13837, and their 24-hour counseling service telephone numbers.

(ii) A simple statement on the proper procedures for a victim to follow after a sexual assault.

(iii) A statement that sexual assault by a person who is known to the victim, including sexual assault by a person who is the spouse of the victim, is a crime.

(iv) A statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime.

(I) A statement informing the victim that strangulation may cause internal injuries and encouraging the victim to seek medical attention.

(10) Writing of reports.

(d) In the development of these policies and standards, each local department is encouraged to consult with domestic violence experts, such as the staff of the local shelter for victims of domestic violence and their children. Departments may use the response guidelines developed by the commission in developing local policies.

SEC. 69. Section 13750 of the Penal Code is amended to read:

13750. (a) A city, county, city and county, or community-based nonprofit organization may each establish a multiagency, multidisciplinary family justice center to assist victims of domestic violence, sexual assault, elder or dependent adult abuse, and human trafficking, to ensure that victims of abuse are able to access all needed services in one location in order to enhance victim safety, increase offender accountability, and improve access to services for victims of domestic violence, sexual assault, elder or dependent adult abuse, and human trafficking.

(b) For purposes of this title, the following terms have the following meanings:

(1) "Abuse" has the same meaning as set forth in Section 6203 of the Family Code.

(2) "Domestic violence" has the same meaning as set forth in Section 6211 of the Family Code.

(3) "Sexual assault" means an act or attempt made punishable by Section 220, 261, 261.5, 264.1, 266c, 269, 285, 286, 287, 288, 288.5, 289, or 647.6, or former Section 262 or 288a.

(4) "Elder or dependent adult abuse" means an act made punishable by Section 368.

(5) "Human trafficking" has the same meaning as set forth in Section 236.1.

(c) For purposes of this title, family justice centers shall be defined as multiagency, multidisciplinary service centers where public and private agencies assign staff members on a full-time or part-time basis in order to provide services to victims of domestic violence, sexual assault, elder or dependent adult abuse, or human trafficking from one location in order to reduce the number of times victims must tell their story, reduce the number of places victims must go for help, and increase access to services and support for victims and their children. Staff members at a family

justice center may be comprised of, but are not limited to, the following:

(1) Law enforcement personnel.

(2) Medical personnel.

(3) District attorneys and city attorneys.

(4) Victim-witness program personnel.

(5) Domestic violence shelter service staff.

(6) Community-based rape crisis, domestic violence, and human trafficking advocates.

(7) Social service agency staff members.

(8) Child welfare agency social workers.

(9) County health department staff.

(10) City or county welfare and public assistance workers.

(11) Nonprofit agency counseling professionals.

(12) Civil legal service providers.

(13) Supervised volunteers from partner agencies.

(14) Other professionals providing services.

(d) This section does not abrogate existing laws regarding privacy or information sharing. Family justice center staff members shall comply with the laws governing their respective professions.

(e) Victims of crime shall not be denied services on the grounds of criminal history. A criminal history search shall not be conducted of a victim at a family justice center without the victim's written consent unless the criminal history search is pursuant to a criminal investigation.

(f) Victims of crime shall not be required to participate in the criminal justice system or cooperate with law enforcement in order to receive counseling, medical care, or other services at a family justice center.

(g) (1) Each family justice center shall consult with community-based domestic violence, sexual assault, elder or dependent adult abuse, and human trafficking agencies in partnership with survivors of violence and abuse and their advocates in the operations process of the family justice center, and shall establish procedures for the ongoing input, feedback, and evaluation of the family justice center by survivors of violence and abuse and community-based crime victim service providers and advocates.

(2) Each family justice center shall develop policies and procedures, in collaboration with local community-based crime

victim service providers and local survivors of violence and abuse, to ensure coordinated services are provided to victims and to enhance the safety of victims and professionals at the family justice center who participate in affiliated survivor-centered support or advocacy groups. Each family justice center shall maintain a formal client feedback, complaint, and input process to address client concerns about services provided or the conduct of any family justice center professionals, agency partners, or volunteers providing services in the family justice center.

(h) (1) Each family justice center shall maintain a client consent policy and shall be in compliance with all state and federal laws protecting the confidentiality of the types of information and documents that may be in a victim's file, including, but not limited to, medical, legal, and victim counselor records. Each family justice center shall have a designated privacy officer to develop and oversee privacy policies and procedures consistent with state and federal privacy laws and the Fair Information Practice Principles promulgated by the United States Department of Homeland Security. At no time shall a victim be required to sign a client consent form to share information in order to access services.

(2) Each family justice center is required to obtain informed, written, reasonably time limited, consent from the victim before sharing information obtained from the victim with any staff member or agency partner, except as provided in paragraphs (3) and (4).

(3) A family justice center is not required to obtain consent from the victim before sharing information obtained from the victim with any staff member or agency partner if the person is a mandated reporter, a peace officer, or a member of the prosecution team and is required to report or disclose specific information or incidents. These persons shall inform the victim that they may share information obtained from the victim without the victim's consent.

(4) Each family justice center is required to inform the victim that information shared with staff members or partner agencies at a family justice center may be shared with law enforcement professionals without the victim's consent if there is a mandatory duty to report, or the client is a danger to themselves or others. Each family justice center shall obtain written acknowledgment that the victim has been informed of this policy.

(5) Consent by a victim for sharing information within a family justice center pursuant to this section shall not be construed as a universal waiver of any existing evidentiary privilege that makes confidential any communications or documents between the victim and any service provider, including, but not limited to, any lawyer, advocate, sexual assault or domestic violence counselor as defined in Section 1035.2 or 1037.1 of the Evidence Code, human trafficking caseworker as defined in Section 1038.2 of the Evidence Code, therapist, doctor, or nurse. Any oral or written communication or any document authorized by the victim to be shared for the purposes of enhancing safety and providing more effective and efficient services to the victim of domestic violence, sexual assault, elder or dependent adult abuse, or human trafficking shall not be disclosed to any third party, unless that third-party disclosure is authorized by the victim, or required by other state or federal law or by court order.

(i) An individual staff member, volunteer, or agency that has victim information governed by this section shall not be required to disclose that information unless the victim has consented to the disclosure or it is otherwise required by other state or federal law or by court order.

(j) A disclosure of information consented to by the victim in a family justice center, made for the purposes of clinical assessment, risk assessment, safety planning, or service delivery, shall not be deemed a waiver of any privilege or confidentiality provision contained in Sections 2263, 2918, 4982, and 6068 of the Business and Professions Code, the lawyer-client privilege protected by Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code, the physician-patient privilege protected by Article 6 (commencing with Section 990) of Chapter 4 of Division 8 of the Evidence Code, the psychotherapist-patient privilege protected by Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code, the sexual assault counselor-victim privilege protected by Article 8.5 (commencing with Section 1035) of Chapter 4 of Division 8 of the Evidence Code, or the domestic violence counselor-victim privilege protected by Article 8.7 (commencing with Section 1037) of Chapter 4 of Division 8 of the Evidence Code.

SEC. 70. Section 13837 of the Penal Code is amended to read:

13837. (a) (1) The California Office of Emergency Services (Cal OES) shall provide grants to proposed and existing child sexual exploitation and child sexual abuse victim counseling centers and prevention programs, including programs for minor victims of human trafficking. Grant recipients shall provide appropriate in-person counseling and referral services during normal business hours, and maintain other standards or services that shall be determined to be appropriate by the advisory committee established pursuant to Section 13836 as grant conditions. The advisory committee shall identify the criteria to be utilized in awarding the grants provided by this chapter before any funds are allocated.

(2) In order to be eligible for funding pursuant to this chapter, the centers shall demonstrate an ability to receive and make use of any funds available from governmental, voluntary, philanthropic, or other sources that may be used to augment any state funds appropriated for purposes of this chapter. Each center receiving funds pursuant to this chapter shall make every attempt to qualify for any available federal funding.

(3) State funds provided to establish centers shall be utilized when possible, as determined by the advisory committee, to expand the program and shall not be expended to reduce fiscal support from other public or private sources. The centers shall maintain quarterly and final fiscal reports in a form to be prescribed by the administering agency. In granting funds, the advisory committee shall give priority to centers which are operated in close proximity to medical treatment facilities.

(b) (1) It is the intent of the Legislature that a goal or purpose of the Cal OES is to ensure that all victims of sexual assault and rape receive comprehensive, quality services, and to decrease the incidence of sexual assault through school and community education and prevention programs.

(2) The Cal OES and the advisory committee established pursuant to Section 13836 shall collaboratively administer sexual assault/rape crisis center victim services programs and provide grants to proposed and existing sexual assault services programs (SASPs) operating local rape victim centers and prevention programs. All SASPs shall provide the services in subparagraphs (A) to (G), inclusive, and to the extent federal funding is made available, shall also provide the service described in subparagraph

(H). The Cal OES shall provide financial and technical assistance to SASPs in implementing the following services:

(A) Crisis intervention, 24 hours per day, seven days per week.

(B) Followup counseling services.

(C) In-person counseling, including group counseling.

(D) Accompaniment services.

(E) Advocacy services.

(F) Information and referrals to victims and the general public.

(G) Community education presentations.

(H) Rape prevention presentations and self-defense programs.

(3) The funding process for distributing grant awards to SASPs shall be administered as follows:

(A) The Cal OES and the advisory committee established pursuant to Section 13836 shall collaboratively adopt each of the following:

(i) The process and standards for determining whether to grant, renew, or deny funding to any SASP applying or reapplying for funding under the terms of the program.

(ii) For SASPs applying for grants under the RFP process described in subparagraph (B), a system for grading grant applications in relation to the standards established pursuant to clause (i), and an appeal process for applications that are denied. A description of this grading system and appeal process shall be provided to all SASPs as part of the application required under the RFP process.

(iii) For SASPs reapplying for funding under the RFA process described in subparagraph (D), a system for grading the performance of SASPs in relation to the standards established pursuant to clause (i), and an appeal process for decisions to deny or reduce funding. A description of this grading system and appeal process shall be provided to all SASPs receiving grants under this program.

(B) Grants for centers that have previously not been funded or were not funded in the previous cycle shall be awarded as a result of a competitive request for proposal (RFP) process. The RFP process shall comply with all applicable state and federal statutes for sexual assault/rape crisis center funding, and to the extent possible, the response to the RFP shall not exceed 25 narrative pages, excluding attachments.

(C) Grants shall be awarded to SASPs that propose to maintain services previously granted funding pursuant to this section, to expand existing services or create new services, or to establish new sexual assault/rape crisis centers in underserved or unserved areas. Each grant shall be awarded for a three-year term.

(D) SASPs reapplying for grants are not subject to a competitive bidding grant process, but are subject to a request for application (RFA) process. The RFA process for a SASP reapplying for grant funds shall consist, in part, of an assessment of the past performance history of the SASP in relation to the standards established pursuant to subparagraph (A). The RFA process shall comply with all applicable state and federal statutes for sexual assault/rape crisis center funding, and to the extent possible, the response to the RFA shall not exceed 10 narrative pages, excluding attachments.

(E) Any SASP funded through this program in the previous grant cycle shall be funded upon reapplication, unless its past performance history fails to meet the standards established pursuant to clause (i) of subparagraph (A).

(F) The Cal OES shall conduct a minimum of one site visit every three years for each agency funded to provide sexual assault/rape crisis centers. The purpose of the site visit shall be to conduct a performance assessment of, and provide subsequent technical assistance for, each center visited. The performance assessment shall include, but need not be limited to, a review of all of the following:

(i) Progress in meeting program goals and objectives.

(ii) Agency organization and facilities.

(iii) Personnel policies, files, and training.

(iv) Recordkeeping, budgeting, and expenditures.

(v) Documentation, data collection, and client confidentiality.

(G) After each site visit conducted pursuant to subparagraph (F), the Cal OES shall provide a written report to the SASP summarizing the performance of the SASP, any deficiencies noted, any corrective action needed, and a deadline for corrective action to be completed. The Cal OES shall also develop a corrective action plan for verifying the completion of corrective action required. The Cal OES shall submit its written report to the SASP no more than 60 days after the site visit. A grant under the RFA process shall not be denied if the SASP did not receive a site visit

during the previous three years, unless the Cal OES is aware of criminal violations relative to the administration of grant funding.

(H) SASPs receiving written reports of deficiencies or orders for corrective action after a site visit shall be given no less than six months' time to take corrective action before the deficiencies or failure to correct may be considered in the next RFA process. However, the Cal OES shall have the discretion to reduce the time to take corrective action in cases where the deficiencies present a significant health or safety risk or when other severe circumstances are found to exist. If corrective action is deemed necessary, and a SASP fails to comply, or if other deficiencies exist that, in the judgment of the Cal OES, cannot be corrected, the Cal OES shall determine, using its grading system, whether continued funding for the SASP should be reduced or denied altogether. If a SASP has been determined to be deficient, the Cal OES may, at any point during the SASP's funding cycle following the expiration of the period for corrective action, deny or reduce further funding.

(I) If a SASP applies or reapplies for funding pursuant to this section and that funding is denied or reduced, the decision to deny or reduce funding shall be provided in writing to the SASP, along with a written explanation of the reasons for the reduction or denial made in accordance with the grading system for the RFP or RFA process. Except as otherwise provided, any appeal of the decision to deny or reduce funding shall be made in accordance with the appeal process established by the Cal OES. The appeal process shall allow a SASP a minimum of 30 days to appeal after a decision to deny or reduce funding. All pending appeals shall be resolved before final funding decisions are reached.

(J) It is the intent of the Legislature that priority for additional funds that become available be given to currently funded, new, or previously unfunded SASPs for expansion of services. However, the Cal OES may determine when expansion is needed to accommodate underserved or unserved areas. If supplemental funding is unavailable, the Cal OES shall have the authority to lower the base level of grants to all currently funded SASPs in order to provide funding for currently funded, new, or previously unfunded SASPs that will provide services in underserved or unserved areas. However, to the extent reasonable, funding reductions shall be reduced proportionately among all currently funded SASPs. After the amount of funding reductions has been

determined, SASPs that are currently funded and those applying for funding shall be notified of changes in the available level of funding prior to the next application process. Funding reductions made under this paragraph shall not be subject to appeal.

(K) Notwithstanding any other provision of this section, the Cal OES may reduce funding to a SASP funded pursuant to this section if federal funding support is reduced. Funding reductions as a result of a reduction in federal funding are not subject to appeal.

(L) This section shall not be construed to supersede any function or duty required by federal acts, rules, regulations, or guidelines for the distribution of federal grants.

(M) As a condition of receiving funding pursuant to this section, a SASP shall do each of the following:

(i) Demonstrate an ability to receive and make use of any funds available from governmental, voluntary, philanthropic, or other sources that may be used to augment any state funds appropriated for purposes of this chapter.

(ii) Make every attempt to qualify for any available federal funding.

(N) For the purposes of this paragraph, "sexual assault" means an act or attempt made punishable by Section 220, 261, 261.5, 264.1, 266c, 285, 286, 287, 288, or 647.6, or former Section 262 or 288a.

(O) For the purposes of this paragraph, "sexual assault services program" or "SASP" means an agency operating a sexual assault/rape crisis center.

SEC. 71. Section 14205 of the Penal Code is amended to read:

14205. (a) The online missing persons registry shall accept and generate complete information on a missing person.

(b) The information on a missing person shall be retrievable by any of the following:

(1) The person's name.

(2) The person's date of birth.

(3) The person's social security number.

(4) Whether a dental chart has been received, coded, and entered into the National Crime Information Center Missing Person System by the Attorney General.

(5) The person's physical description, including hair and eye color and body marks.

(6) The person's known associates.

(7) The person's last known location.

(8) The name or assumed name of the abductor, if applicable, other pertinent information relating to the abductor or the assumed abductor, or both.

(9) Any other information, as deemed appropriate by the Attorney General.

(c) The Attorney General, in consultation with local law enforcement agencies and other user groups, shall develop the form in which information shall be entered into the system.

(d) The Attorney General shall establish and maintain within the center a separate, confidential historic database relating to missing children and at-risk adults. The historic database may be used only by the center for statistical and research purposes. The historic database shall be set up to categorize cases relating to missing children and at-risk adults by type. These types shall include the following:

(1) Runaways.

(2) Voluntary missing.

(3) Lost.

(4) Abduction involving movement of the victim in the commission of the crime or sexual exploitation.

(5) Nonfamily abduction.

(6) Family abduction.

(7) Any other categories as determined by the Attorney General.

(e) In addition, the data shall include the number of missing children and missing at-risk adults in this state and the category of each case.

(f) The center may supply information about specific cases from the historic database to a local police department, sheriff's department, or district attorney, only in connection with an investigation by the police department, sheriff's department, or district attorney of a missing person case or a violation or attempted violation of Section 220, 261.5, 273a, 273d, or 273.5, or any sex offense listed in Section 290, except for the offense specified in subdivision (d) of Section 243.4.

SEC. 72. Section 5164 of the Public Resources Code is amended to read:

5164. (a) (1) A county, city, city and county, or special district shall not hire a person for employment, or hire a volunteer to perform services, at a county, city, city and county, or special

district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over a minor, if that person has been convicted of an offense specified in paragraph (2).

(2) (A) A violation or attempted violation of Section 220, 261.5, 273a, 273d, or 273.5 of the Penal Code, or a sex offense listed in Section 290 of the Penal Code, except for the offense specified in subdivision (d) of Section 243.4 of the Penal Code.

(B) A felony or misdemeanor conviction specified in subparagraph (C) within 10 years of the date of the employer's request.

(C) A felony conviction that is over 10 years old, if the subject of the request was incarcerated within 10 years of the employer's request, for a violation or attempted violation of an offense specified in Chapter 3 (commencing with Section 207) of Title 8 of Part 1 of the Penal Code, Section 211 or 215 of the Penal Code, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022 of the Penal Code, in the commission of that offense, Section 217.1 of the Penal Code, Section 236 of the Penal Code, an offense specified in Chapter 9 (commencing with Section 240) of Title 8 of Part 1 of the Penal Code, or an offense specified in subdivision (c) of Section 667.5 of the Penal Code, provided that a record of a misdemeanor conviction shall not be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor convictions, or a combined total of three or more misdemeanor and felony convictions, for violations listed in this section within the 10-year period immediately preceding the employer's request or has been incarcerated for any of those convictions within the preceding 10 years.

(b) (1) To give effect to this section, a county, city, city and county, or special district shall require each such prospective employee or volunteer to complete an application that inquires as to whether or not that individual has been convicted of an offense specified in subdivision (a). The county, city, city and county, or special district shall screen, pursuant to Section 11105.3 of the Penal Code, any such prospective employee or volunteer, having supervisory or disciplinary authority over a minor, for that person's criminal background.

(2) A local agency request for Department of Justice records pursuant to this subdivision shall include the prospective employee's or volunteer's fingerprints, which may be taken by the local agency, and any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice. A fee shall not be charged to the local agency for requesting the records of a prospective volunteer pursuant to this subdivision.

(3) A county, city, city and county, or special district may charge a prospective employee or volunteer described in subdivision (a) a fee to cover all of the county, city, city and county, or special district's costs attributable to the requirements imposed by this section.

SEC. 73. Section 4467 of the Vehicle Code is amended to read:

4467. (a) Notwithstanding any other law, the department shall issue new and different license plates immediately upon request to the registered owner of a vehicle who appears in person and submits a completed application, if all of the following are provided:

(1) Proof of ownership of the vehicle that is acceptable to the department.

(2) A driver's license or identification card containing a picture of the licensee or cardholder issued to the registered owner by the department pursuant to Chapter 1 (commencing with Section 12500) of Division 6. The department shall conduct a search of its records to verify the authenticity of any document submitted under this paragraph.

(3) The previously issued license plates from the vehicle.

(4) The payment of required fees under subdivision (c) of Section 4850 and subdivision (b) of Section 9265 for the issuance of duplicate license plates.

(5) One of the following:

(A) A copy of a police report, court documentation, or other law enforcement documentation identifying the registered owner of the vehicle as the victim of an incident of domestic violence, as specified in Section 1708.6 of the Civil Code, the subject of stalking, as specified in Section 1708.7 of the Civil Code or Section 646.9 of the Penal Code, the victim of a rape, as defined in Section 261 or former Section 262 of the Penal Code, or the victim of a sexual battery, as defined in Section 1708.5 of the Civil Code.

(B) A written acknowledgment, dated within 30 days of submission, on the letterhead of a domestic violence agency or a rape crisis center, that the registered owner is actively seeking assistance or has sought assistance from that agency within the past year.

(C) An active protective order as defined in Section 6218 of the Family Code, or issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, that names the registered owner as a protected party.

(b) Subdivision (a) does not apply to special license plates issued under Article 8 (commencing with Section 5000) of Chapter 1 of Division 3, special interest license plates issued under Article 8.4 (commencing with Section 5060) of Chapter 1 of Division 3, or environmental license plates issued under Article 8.5 (commencing with Section 5100) of Chapter 1 of Division 3.

SEC. 74. Section 6500 of the Welfare and Institutions Code is amended to read:

6500. (a) For purposes of this article, the following definitions shall apply:

(1) "Dangerousness to self or others" shall include, but not be limited to, a finding of incompetence to stand trial pursuant to the provisions of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with murder, mayhem, aggravated mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, carjacking perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of subdivision (b) of Section 451 of the Penal Code, a violation of paragraph (1) or (2) of subdivision (a) of former Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 288 of the Penal Code, any of the following acts when committed by force, violence, duress, menace, fear of immediate and unlawful bodily injury on the victim or another person: a violation of paragraph (1) or (2) of subdivision (a) of former Section 262 of the Penal Code, a violation of Section 264.1, 286, or 287 of, or former Section 288a of, the Penal Code, or a violation of subdivision (a) of Section 289 of the

Penal Code; a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 18725, 18740, 18745, 18750, or 18755 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act that poses a serious threat of bodily harm to another person.

(2) "Developmental disability" shall have the same meaning as defined in subdivision (a) of Section 4512.

(b) (1) A person with a developmental disability may be committed to the State Department of Developmental Services for residential placement other than in a developmental center or state-operated community facility, as provided in subdivision (a) of Section 6509, if the person is found to be a danger to self or others.

(A) An order of commitment made pursuant to this paragraph shall expire automatically one year after the order of commitment is made.

(B) This paragraph does not prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. If subsequent petitions are filed, the procedures followed shall be the same as with the initial petition for commitment.

(2) A person with a developmental disability shall not be committed to the State Department of Developmental Services for placement in a developmental center or state-operated community facility pursuant to this article unless the person meets the criteria for admission to a developmental center or state-operated community facility pursuant to paragraph (2), (3), (4), (5), or (7) of subdivision (a) of Section 7505 and is dangerous to self or others, or as a result of an acute crisis, or the person currently is a resident of a state developmental center or state-operated community facility pursuant to an order of commitment made pursuant to this article prior to July 1, 2012, and is being recommitted pursuant to paragraph (4) of this subdivision.

(3) If the person with a developmental disability is in the care or treatment of a state hospital, developmental center, or other facility at the time a petition for commitment is filed pursuant to this article, proof of a recent overt act while in the care and treatment of a state hospital, developmental center, or other facility

is not required in order to find that the person is a danger to self or others.

(4) If subsequent petitions are filed with respect to a resident of a developmental center or a state-operated community facility committed prior to July 1, 2012, the procedures followed and criteria for recommitment shall be the same as with the initial petition for commitment.

(5) In any proceedings conducted under the authority of this article, the person alleged to have a developmental disability shall be informed of their right to counsel by the court and, if the person does not have an attorney for the proceedings, the court shall immediately appoint the public defender or other attorney to represent them. The person shall pay the cost for the legal services if the person is able to do so. At any judicial proceeding under this article, allegations that a person has a developmental disability and is dangerous to self or others, or as a result of an acute crisis, shall be presented by the district attorney for the county unless the board of supervisors, by ordinance or resolution, delegates this authority to the county counsel. The regional center shall inform the clients' rights advocate, as described in Section 4433, when a petition is filed under this section and when a petition expires. The clients' rights advocate for the regional center may attend any judicial proceedings to assist in protecting the individual's rights.

(c) (1) An order of commitment made pursuant to this article with respect to a person described in paragraph (3) of subdivision (a) of Section 7505 shall expire automatically one year after the order of commitment is made. This section does not prohibit a party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. If subsequent petitions are filed, the procedures followed shall be the same as with an initial petition for commitment.

(2) An order of commitment made pursuant to this article on or after July 1, 2012, with respect to the admission to a developmental center or state-operated community facility of a person described in paragraph (2), (4), or (7) of subdivision (a) of Section 7505 shall expire automatically six months after the earlier of the order of commitment pursuant to this section or the order of a placement in a developmental center pursuant to Section 6506, unless the regional center, prior to the expiration of the order of commitment, notifies the court in writing of the need for an extension. The

required notice shall state facts demonstrating that the individual continues to be in acute crisis, as defined in paragraph (1) of subdivision (d) of Section 4418.7, and the justification for the requested extension, and shall be accompanied by the comprehensive assessment and plan described in subdivision (e) of Section 4418.7. An order granting an extension shall not extend the total period of commitment beyond one year, including a placement in a developmental center pursuant to Section 6506. If, prior to expiration of one year, the regional center notifies the court in writing of facts demonstrating that, due to circumstances beyond the regional center's control, the placement cannot be made prior to expiration of the extension, and the court determines that good cause exists, the court may grant one further extension of up to 30 days. The court may also issue any orders the court deems appropriate to ensure that necessary steps are taken to ensure that the individual can be safely and appropriately transitioned to the community in a timely manner. The required notice shall state facts demonstrating that the regional center has made significant progress implementing the plan described in subdivision (e) of Section 4418.7 and that extraordinary circumstances exist beyond the regional center's control that have prevented the plan's implementation. This paragraph does not preclude the individual or a person acting on the person's behalf from making a request for release pursuant to Section 4800, or counsel for the individual from filing a petition for habeas corpus pursuant to Section 4801. Notwithstanding subdivision (a) of Section 4801, for purposes of this paragraph, judicial review shall be in the superior court of the county that issued the order of commitment pursuant to this section.

(3) An order of commitment made pursuant to this article on or after January 1, 2020, with respect to the admission to an institution for mental disease, as described in subparagraph (C) of paragraph (9) of subdivision (a) of Section 4648, shall expire automatically six months after the earlier of the order of commitment pursuant to this section, the order of a placement in an institution for mental disease pursuant to Section 6506, or the date the regional center placed the individual in the institution for mental disease, unless the regional center notifies the court in writing of the need for an extension. The required notice shall state facts demonstrating that the individual continues to be in acute crisis, as defined in paragraph (1) of subdivision (d) of Section 4418.7, and the

justification for the requested extension, and shall be accompanied by the comprehensive assessment and plan described in clause (v) of subparagraph (C) of paragraph (9) of subdivision (a) of Section 4648. An order granting an extension shall not extend the total period of commitment beyond one year, including a placement in an institution for mental disease pursuant to Section 6506. If, prior to expiration of one year, the regional center notifies the court in writing of facts demonstrating that, due to circumstances beyond the regional center's control, the placement cannot be made prior to expiration of the extension, and the court determines that good cause exists, the court may grant one further extension of up to 30 days. The court may also issue any orders the court deems appropriate in order for necessary steps to be taken to ensure that the individual can be safely and appropriately transitioned to the community in a timely manner. The required notice shall state facts demonstrating that the regional center has made significant progress implementing the plan described in clause (v) of subparagraph (C) of paragraph (9) of subdivision (a) of Section 4648 and that extraordinary circumstances exist beyond the regional center's control that have prevented the plan's implementation. This paragraph does not preclude the individual or any person acting on their own behalf from making a request for release pursuant to Section 4800, or counsel for the individual from filing a petition for habeas corpus pursuant to Section 4801. Notwithstanding subdivision (a) of Section 4801, for purposes of this paragraph, judicial review shall be in the superior court of the county that issued the order of commitment pursuant to this section.

SEC. 75. Section 15610.63 of the Welfare and Institutions Code is amended to read:

15610.63. "Physical abuse" means any of the following:

(a) Assault, as defined in Section 240 of the Penal Code.

(b) Battery, as defined in Section 242 of the Penal Code.

(c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.

(d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(e) Sexual assault, that means any of the following:

(1) Sexual battery, as defined in Section 243.4 of the Penal Code.

(2) Rape, as defined in Section 261 of the Penal Code.

(3) Rape in concert, as described in Section 264.1 of the Penal Code.

(4) Incest, as defined in Section 285 of the Penal Code.

(5) Sodomy, as defined in Section 286 of the Penal Code.

(6) Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.

(7) Sexual penetration, as defined in Section 289 of the Penal Code.

(8) Lewd or lascivious acts, as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.

(f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:

(1) For punishment.

(2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.

(3) For any purpose not authorized by the physician and surgeon.

SEC. 76. (a) Section 8.1 of this bill incorporates amendments to Section 1103 of the Evidence Code proposed by both this bill and Assembly Bill 939. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 1103 of the Evidence Code, and (3) this bill is enacted after Assembly Bill 939, in which case Section 8 of this bill shall not become operative.

(b) (1) Section 10.1 of this bill incorporates amendments to Section 3044 of the Family Code proposed by both this bill and Senate Bill 320. That section of this bill shall only become operative if (A) both bills are enacted and become effective on or before January 1, 2022, (B) each bill amends Section 3044 of the Family Code, (C) Assembly Bill 1579 is not enacted or as enacted does not amend that section, and (D) this bill is enacted after Senate Bill 320, in which case Sections 10, 10.2, and 10.3 of this bill shall not become operative.

(2) Section 10.2 of this bill incorporates amendments to Section 3044 of the Family Code proposed by both this bill and Assembly Bill 1579. That section of this bill shall only become operative if (A) both bills are enacted and become effective on or before January 1, 2022, (B) each bill amends Section 3044 of the Family

Code, (C) Senate Bill 320 is not enacted or as enacted does not amend that section, and (D) this bill is enacted after Assembly Bill 1579, in which case Sections 10, 10.1, and 10.3 of this bill shall not become operative.

(3) Section 10.3 of this bill incorporates amendments to Section 3044 of the Family Code proposed by this bill, Senate Bill 320, and Assembly Bill 1579. That section of this bill shall only become operative if (A) all three bills are enacted and become effective on or before January 1, 2022, (B) all three bills amend Section 3044 of the Family Code, and (C) this bill is enacted after Senate Bill 320 and Assembly Bill 1579, in which case Sections 10, 10.1, and 10.2 of this bill shall not become operative.

(c) Section 12.1 of this bill incorporates amendments to Section 13956 of the Government Code proposed by both this bill and Senate Bill 299. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, (2) each bill amends Section 13956 of the Government Code, and (3) this bill is enacted after Senate Bill 299, in which case Section 12 of this bill shall not become operative.

SEC. 77. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2021

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Governor