SB-781 Public Safety Omnibus. (2019-2020)

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Senate Bill No. 781

CHAPTER 256

An act to amend Section 4830.5 of the Business and Professions Code, to amend Section 1208.5 of the Code of Civil Procedure, to amend Section 30652 of the Food and Agricultural Code, to amend Section 1031.1 of the Government Code, to amend Section 25988 of the Health and Safety Code, to amend Sections 136.2, 285.6, 993, 1000.7, 1170.05, 2604, and 29805 of, and to repeal Section 597f of, the Penal Code, and to amend Section 827 of the Welfare and Institutions Code, relating to public safety.

[Approved by Governor September 05, 2019. Filed with Secretary of State September 05, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 781, Committee on Public Safety. Public Safety Omnibus.

(1) Existing law requires peace officers, among other standards, to be of good moral character, as determined by a thorough background investigation. Existing law requires an employer to disclose employment information, as defined, about an applicant not currently employed as a peace officer or an applicant for a position other than sworn peace officer within a law enforcement agency. Existing law requires the employment information to be kept confidential, but authorizes disclosure between the initial requesting law enforcement agency and another authorized law enforcement agency that is also conducting a peace officer background investigation.

This bill would authorize disclosure of employment information by the initial requesting law enforcement agency and another authorized law enforcement agency conducting a background investigation on a law enforcement agency applicant that is not a peace officer.

(2) Under existing law, Sections 597f and 597.1 of the Penal Code punish animal neglect by making it a misdemeanor to permit an animal to be in a building, street, lot, or other public place without proper care and attention. Both provisions of existing law allow a peace officer or other public entity to take possession of the animal, and both allow for the imposition of a lien on the animal for the costs of caring for the animal. Existing appellate case law holds that Section 597f of the Penal Code is unconstitutionally invalid for failing to provide the owner or person entitled to possession of the animal with reasonable notice and a hearing as required by the due process clause of the Fourteenth Amendment to the United States Constitution. Section 597.1 of the Penal Code requires that the owner or keeper of the animal, if known or ascertainable after reasonable investigation, be given notice and provided with the opportunity for a hearing either before or after the seizure of the animal.

This bill would repeal Section 597f of the Penal Code and would update cross-references to that law in other code sections to instead refer to Section 597.1 of the Penal Code.

(3) Existing law authorizes the Secretary of the Department of Corrections and Rehabilitation to offer a program under which female inmates who are committed to state prison may be allowed to participate in a voluntary alternative custody program in lieu

of confinement in state prison. Existing case law requires this program to be available to all eligible inmates.

This bill would make conforming changes in line with the case law.

(4) Existing law presumes that an adult housed in a state prison has the capacity to give informed consent and make a health care decision, to give or revoke an advance health care directive, and to designate or disqualify a surrogate, unless a physician or dentist files a petition with the Office of Administrative Hearings to request a determination as to a patient's capacity. Existing law requires that petition to include specified information, including a discussion of the inmate patient's desires, if known, and whether there is an advance health care directive, a Physician Orders for Life Sustaining Treatment (POLST) form, or other documented evidence of the inmate patient's directives or desires and how those indications might influence the decision to issue an order.

This bill would remove discussion of an inmate patient's POLST from the petition process.

(5) Existing law specifies the individuals who may inspect a juvenile case file, including the Department of Justice to carry out its duties as a repository for sex offender registration and notification in California. Existing law specifies the individuals who may receive copies of the juvenile case file, including court personnel and the district attorney, city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases.

This bill would authorize the Department of Justice to receive copies of juvenile case files to carry out its duties as a repository for sex offender registration and notification in California.
Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4830.5 of the Business and Professions Code is amended to read:

4830.5. (a) If a licensee under this chapter has reasonable cause to believe that a dog has been injured or killed through participation in a staged animal fight, as prescribed in Section 597b of the Penal Code, it is the duty of the licensee to promptly report that fact to the appropriate law enforcement authorities of the county, city, or city and county in which the fight occurred.

(b) A licensee shall not incur any civil liability as a result of making any report pursuant to this section or as a result of making any report of a violation of Section 596, subdivision (a) or (b) of Section 597, or Section 597b, former Section 597f, Section 597g, 597n, 597.1, or 597.5 of the Penal Code.

SEC. 2. Section 1208.5 of the Code of Civil Procedure is amended to read:

1208.5. A person having a lien upon an animal or animals under the provisions of Section 597a or 597.1 of the Penal Code may satisfy the lien in any of the following ways:

(a) If the lien is not discharged and satisfied, by the person responsible, within three days after the obligation becomes due, the person holding the lien may resort to the proper court to satisfy the claim.

(b) Three days after the charges against the property become due, sell the property, or an undivided fraction thereof as may become necessary, to defray the amount due and costs of sale, by giving three days' notice of the sale by advertising in some newspaper published in the county, or city and county, in which the lien has attached to the property.

(c) If there is no newspaper published in the county, by posting notices of the sale in three of the most public places in the town or county for three days previous to the sale. The notices shall contain an accurate description of the property to be sold, together with the terms of sale, which shall be for cash, payable on the consummation of the sale. The proceeds of the sale shall be applied to the discharge of the lien and the costs of sale; the remainder, if any, shall be paid over to the owner, if known, and if not known shall be paid into the treasury of the humane society of the county, or city and county, where the sale takes place. If there is no humane society in the county, then the remainder shall be paid into the county treasury.

SEC. 3. Section 30652 of the Food and Agricultural Code is amended to read:

30652. All fees for the issuance of dog license tags and all fines collected pursuant to this division shall be paid into the county, city, or city and county treasury, as the case may be, and shall be used as follows:

(a) First, to pay fees for the issuance of dog license tags.

(b) Second, to pay fees, salaries, costs, expenses, or any or all of them for the enforcement of this division and all ordinances that are made pursuant to this division.

(c) Third, to pay damages to owners of livestock that are killed by dogs.

(d) Fourth, to pay costs of any hospitalization or emergency care of animals pursuant to Section 597.1 of the Penal Code.

SEC. 4. Section 1031.1 of the Government Code is amended to read:

1031.1. (a) For purposes of performing a thorough background investigation for applicants not currently employed as a peace officer, as required by subdivision (d) of Section 1031, or in the case of an applicant for a position other than a sworn peace officer within a law enforcement agency, an employer shall disclose employment information relating to a current or former employee, upon request of a law enforcement agency, if all of the following conditions are met:

(1) The request is made in writing.

(2) The request is accompanied by a notarized authorization by the applicant releasing the employer of liability.

(3) The request and the authorization are presented to the employer by a sworn officer or other authorized representative of the employing law enforcement agency.

(b) In the absence of fraud or malice, an employer shall not be subject to civil liability for any relevant cause of action by virtue of releasing employment information required pursuant to this section. This section does not in any way or manner abrogate or lessen the existing common law or statutory privileges and immunities of an employer.

(c) For purposes of this section, “employment information” includes written information in connection with job applications, performance evaluations, attendance records, disciplinary actions, eligibility for rehire, and other information relevant to the performance of a peace officer or other law enforcement agency applicant, except information prohibited from disclosure by any other state or federal law or regulation.

(d) An employer’s refusal to disclose information to a law enforcement agency in accordance with this section shall constitute grounds for a civil action for injunctive relief requiring disclosure on the part of an employer.

(e) Employment information disclosed by an employer to an initial requesting law enforcement agency shall be deemed confidential. However, the initial requesting law enforcement agency may disclose this information to another authorized law enforcement agency that is also conducting a background investigation into a peace officer or other law enforcement agency applicant. If this information is disclosed to another law enforcement agency, that agency shall utilize the information for investigative leads only and the information shall be independently verified by that agency in order to be used in determining the suitability of a peace officer or other law enforcement agency applicant.

(f) An employer may charge reasonable fees to cover actual costs incurred in copying and furnishing documents to law enforcement agencies as required by this section.

SEC. 5. Section 25988 of the Health and Safety Code is amended to read:

25988. A peace officer, officer of a humane society as qualified under Section 14502 or 14503 of the Corporations Code, or officer of an animal control or animal regulation department of a public agency, as qualified under Section 830.9 of the Penal Code, may issue a citation as prescribed in Section 25988.5, to a person or entity keeping horses or other equine animals for hire, if the person or entity fails to meet any of the following standards of humane treatment regarding the keeping of horses or other equine animals:

(a) Any enclosure where an equine is primarily kept shall be of sufficient size to enable the equine to comfortably stand up, turn around, and lie down, and shall be kept free of excessive urine and waste matter.

(b) Paddocks and corrals shall be of adequate size for the equine to move about freely.

(c) Buildings, premises, and conveyances used in conjunction with equines shall be kept free of sharp objects, protrusions, or other materials that are likely to cause injury.

(d) Equines shall be supplied with nutritionally adequate feed and clean water, in accordance with standards published by the Cooperative Extension of the Division of Agricultural Sciences of the University of California.

(e) Tack and equipment shall be appropriate and fit properly.

(f) After use, the equine shall be cooled out to a normal condition at rest.

(g) When not being ridden, a saddled equine shall have available adequate shelter from the elements, and have loosened saddle straps and girths.

(h) An equine shall not be available for hire or use if the equine has any conditions that violate subdivision (b) of Section 597 or Section 597.1 of the Penal Code or any of the following conditions:

(1) Sores or abrasions caused or likely to be irritated by the surfaces of saddles, girths, harnesses, or bridles.

(2) Blindness in both eyes.

(3) Improperly or inadequately trimmed and shod feet contrary to the standards published by the Cooperative Extension of the Division of Agricultural Sciences of the University of California.

(i) Each equine shall be individually identified, using humane methods, such as a detailed description, including, but not limited to, name, breed, color, markings, size, age, sex, and photograph.

(j) Farrier and veterinary receipts shall be kept and shall identify each equine treated.

(k) Veterinary, farrier, and feed records shall be made available during normal business hours to the law enforcement officer. Upon failure to provide these records, the equine or equines in question may not be used for hire until the records are produced or an equine veterinarian certifies that the equine or equines are fit for labor.

SEC. 6. 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 as 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) in a case in which 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 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 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 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 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 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, 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 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. 7. Section 286.5 of the Penal Code is amended to read:

286.5. Any person who sexually assaults an animal protected by Section 597.1 for the purpose of arousing or gratifying the sexual desire of the person is guilty of a misdemeanor.

SEC. 8. Section 597f of the Penal Code is repealed.

SEC. 9. Section 993 of the Penal Code is amended to read:

993. (a) At the arraignment of a defendant who is charged with a felony and who is, or whom the court reasonably deems to be, the sole custodial parent of one or more minor children, the court shall provide the following to the defendant:

(1) Judicial Council Form GC-205, the “Guardianship Pamphlet.”

(2) Information regarding a power of attorney for a minor child.

(3) Information regarding trustline background examinations pertaining to child care providers as provided in Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code.

(b) If the defendant states, orally or in writing, at the arraignment that the defendant is a sole custodial parent of one or more minor children, the court may reasonably deem the defendant to be a sole custodial parent of one or more minor children without further investigation. The court may, but is not required to, make that determination on the basis of information other than the defendant’s statement.

SEC. 10. Section 1000.7 of the Penal Code is amended to read:

1000.7. (a) The following counties may establish a pilot program pursuant to this section to operate a deferred entry of judgment pilot program for eligible defendants described in subdivision (b):

(1) County of Alameda.

(2) County of Butte.

(3) County of Napa.

(4) County of Nevada.

(5) County of Santa Clara.

(6) County of Ventura.

(b) A defendant may participate in a deferred entry of judgment pilot program within the county’s juvenile hall if that person is charged with committing a felony offense, other than the offenses listed under subdivision (d), pleads guilty to the charge or charges, and the probation department determines that the person meets all of the following requirements:

(1) Is 18 years of age or older, but under 21 years of age on the date the offense was committed.

(2) Is suitable for the program after evaluation using a risk assessment tool, as described in subdivision (c).

(3) Shows the ability to benefit from services generally reserved for delinquents, including, but not limited to, cognitive behavioral therapy, other mental health services, and age-appropriate educational, vocational, and supervision services, that are currently deployed under the jurisdiction of the juvenile court.

(4) Meets the rules of the juvenile hall developed in accordance with the applicable regulations set forth in Title 15 of the California Code of Regulations.

(5) Does not have a prior or current conviction for committing an offense listed under subdivision (c) of Section 1192.7 or subdivision (c) of Section 667.5 of this code, or subdivision (b) of Section 707 of the Welfare and Institutions Code.

(6) Is not required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.

(c) The probation department, in consultation with the superior court, district attorney, and sheriff of the county or the governmental body charged with operating the county jail, shall develop an evaluation process using a risk assessment tool to determine eligibility for the program.

(d) If the defendant is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, or has been convicted of one or more of the following offenses, the defendant is not eligible for the program:

(1) An offense listed under subdivision (c) of Section 1192.7.

(2) An offense listed under subdivision (c) of Section 667.5.

(3) An offense listed under subdivision (b) of Section 707 of the Welfare and Institutions Code.

(e) The court shall grant deferred entry of judgment if an eligible defendant consents to participate in the program, waives the right to a speedy trial or a speedy preliminary hearing, pleads guilty to the charge or charges, and waives time for the pronouncement of judgment.

(f) (1) If the probation department determines that the defendant is not eligible for the deferred entry of judgment pilot program or the defendant does not consent to participate in the program, the proceedings shall continue as in any other case.

(2) If it appears to the probation department that the defendant is performing unsatisfactorily in the program as a result of the commission of a new crime or the violation of any of the rules of the juvenile hall or that the defendant is not benefiting from the services in the program, the probation department may make a motion for entry of judgment. After notice to the defendant, the court shall hold a hearing to determine whether judgment should be entered. If the court finds that the defendant is performing unsatisfactorily in the program or that the defendant is not benefiting from the services in the program, the court shall render a finding of guilt to the charge or charges pleaded, enter judgment, and schedule a sentencing hearing as otherwise provided in this code, and the probation department, in consultation with the county sheriff, shall remove the defendant from the program and return the defendant to custody in county jail. The mechanism of when and how the defendant is moved from custody in juvenile hall to custody in a county jail shall be determined by the local multidisciplinary team specified in paragraph (2) of subdivision (m).

(3) If the defendant has performed satisfactorily during the period in which deferred entry of judgment was granted, at the end of that period, the court shall dismiss the criminal charge or charges.

(g) A defendant shall serve no longer than one year in custody within a county's juvenile hall pursuant to the program.

(h) The probation department shall develop a plan for reentry services, including, but not limited to, housing, employment, and education services, as a component of the program.

(i) The probation department shall submit data relating to the effectiveness of the program to the Department of Justice, including recidivism rates for program participants as compared to recidivism rates for similar populations in the adult system within the county.

(j) A defendant participating in the program pursuant to this section shall not come into contact with minors within the juvenile hall for any purpose, including, but not limited to, housing, recreation, or education.

(k) Prior to establishing a pilot program pursuant to this section, the county shall apply to the Board of State and Community Corrections for approval of a county institution as a suitable place for confinement for the purpose of the pilot program. The board shall review and approve or deny the application of the county within 30 days of receiving notice of this proposed use. In its review, the board shall take into account the available programming, capacity, and safety of the institution as a place for the confinement and rehabilitation of individuals within the jurisdiction of the criminal court, and those within the jurisdiction of the juvenile court.

(l) The Board of State and Community Corrections shall review a county's pilot program to ensure compliance with requirements of the federal Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. Sec. 11101 et seq.), as amended, relating to "sight and sound" separation between juveniles and adult inmates.

(m) (1) This section applies to a defendant who would otherwise serve time in custody in a county jail. Participation in a program pursuant to this section shall not be authorized as an alternative to a sentence involving community supervision.

(2) Each county shall establish a multidisciplinary team that shall meet periodically to review and discuss the implementation, practices, and impact of the program. The team shall include representatives from the following:

(A) Probation department.

(B) The district attorney's office.

(C) The public defender's office.

(D) The sheriff's department.

(E) Courts located in the county.

(F) The county board of supervisors.

(G) The county health and human services department.

(H) A youth advocacy group.

(n) (1) A county that establishes a pilot program pursuant to this section shall submit data regarding the pilot program to the Board of State and Community Corrections. The data submitted shall be used for the purposes of paragraph (2).

(2) The board shall conduct an evaluation of the pilot program's impact and effectiveness. The evaluation shall include, but not be limited to, evaluating each pilot program's impact on sentencing and impact on opportunities for community supervision, monitoring the program's effect on minors in the juvenile facility, if any, and its effectiveness with respect to program participants, including outcome-related data for program participants compared to young adult offenders sentenced for comparable crimes.

(3) Each evaluation shall be combined into a comprehensive report and submitted to the Assembly and Senate Committees on Public Safety, no later than December 31, 2020.

(4) The board may contract with an independent entity, including, but not limited to, the Regents of the University of California, for the purposes of carrying out the duties of the board pursuant to this subdivision.

(o) This chapter shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

SEC. 11. Section 1170.05 of the Penal Code is amended to read:

1170.05. (a) Notwithstanding any other law, the Secretary of the Department of Corrections and Rehabilitation may offer a program under which inmates, as specified in subdivision (c), who are not precluded by subdivision (d), and who have been committed to state prison may be allowed to participate in a voluntary alternative custody program as defined in subdivision (b) in lieu of their confinement in state prison. In order to qualify for the program an offender need not be confined in an institution under the jurisdiction of the Department of Corrections and Rehabilitation. Under this program, one day of participation in an alternative custody program shall be in lieu of one day of incarceration in the state prison. Participants in the program shall receive any sentence reduction credits that they would have received had they served their sentence in the state prison, and shall be subject to denial and loss of credit pursuant to subdivision (a) of Section 2932. The department may enter into contracts with county agencies, not-for-profit organizations, for-profit organizations, and others in order to promote alternative custody placements.

(b) As used in this section, an alternative custody program shall include, but not be limited to, the following:

(1) Confinement to a residential home during the hours designated by the department.

(2) Confinement to a residential drug or treatment program during the hours designated by the department.

(3) Confinement to a transitional care facility that offers appropriate services.

(c) Except as provided by subdivision (d), only inmates sentenced to state prison for a determinate term of imprisonment pursuant to Section 1170 are eligible to participate in the alternative custody program authorized by this section.

(d) An inmate committed to the state prison who meets any of the following criteria is not eligible to participate in the alternative custody program:

(1) The person has a current conviction for a violent felony as defined in Section 667.5.

(2) The person has a current conviction for a serious felony as defined in Sections 1192.7 and 1192.8.

(3) The person has a current or prior conviction for an offense that requires the person to register as a sex offender as provided in Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.

(4) The person was screened by the department using a validated risk assessment tool and determined to pose a high risk to commit a violent offense.

(5) The person has a history, within the last 10 years, of escape from a facility while under juvenile or adult custody, including, but not limited to, any detention facility, camp, jail, or state prison facility.

(e) An alternative custody program shall include the use of electronic monitoring, global positioning system devices, or other supervising devices for the purpose of helping to verify a participant's compliance with the rules and regulations of the program. The devices shall not be used to eavesdrop or record any conversation, except a conversation between the participant and the person supervising the participant, in which case the recording of such a conversation is to be used solely for the purposes of voice identification.

(f) (1) In order to implement alternative custody for the population specified in subdivision (c), the department shall create, and the participant shall agree to and fully participate in, an individualized treatment and rehabilitation plan. When available and appropriate for the individualized treatment and rehabilitation plan, the department shall prioritize the use of evidence-based programs and services that will aid in the successful reentry into society while the participant takes part in alternative custody. Case management services shall be provided to support rehabilitation and to track the progress and individualized treatment plan compliance of the inmate.

(2) For purposes of this section, "evidence-based practices" means supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole, or postrelease community supervision.

(g) The secretary shall prescribe reasonable rules and regulations under which the alternative custody program shall operate. The department shall adopt regulations necessary to effectuate this section, including emergency regulations as provided under Section 5058.3 and adopted pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The participant shall be informed in writing that compliance with the rules and regulations of the program is required, including, but not limited to, the following rules:

(1) The participant shall remain within the interior premises of the participant's residence during the hours designated by the secretary or the secretary's designee.

(2) The participant shall be subject to search and seizure by a peace officer at any time of the day or night, with or without cause. In addition, the participant shall admit any peace officer designated by the secretary or the secretary's designee into the participant's residence at any time for purposes of verifying the participant's compliance with the conditions of detention. Prior to participation in the alternative custody program, all participants shall agree, in writing, to these terms and conditions.

(3) The secretary or the secretary's designee may immediately retake the participant into custody to serve the balance of the participant's sentence if the electronic monitoring or supervising devices are unable for any reason to properly perform their function at the designated place of detention, if the participant fails to remain within the place of detention as stipulated in the agreement, or if the participant for any other reason no longer meets the established criteria under this section.

(h) Whenever a peace officer supervising a participant has reasonable suspicion to believe that the participant is not complying with the rules or conditions of the program, or that the electronic monitoring devices are unable to function properly in the designated place of confinement, the peace officer may, under general or specific authorization of the secretary or the secretary's designee, and without a warrant of arrest, retake the participant into custody to complete the remainder of the original sentence.

(i) This section does not require the secretary or the secretary's designee to allow an inmate to participate in this program if it appears from the record that the inmate has not satisfactorily complied with reasonable rules and regulations while in custody. An inmate is eligible for participation in an alternative custody program only if the secretary or the secretary's designee concludes that the inmate meets the criteria for program participation established under this section and that the inmate's participation is consistent with any reasonable rules and regulations prescribed by the secretary.

(1) The rules and regulations and administrative policies of the program shall be written and shall be given or made available to the participant upon assignment to the alternative custody program.

(2) The secretary or the secretary's designee shall have the sole discretion concerning whether to permit program participation as an alternative to custody in state prison. A risk and needs assessment shall be completed on each inmate to assist in the determination of eligibility for participation and the type of alternative custody.

(3) An inmate's existing psychiatric or medical condition that requires ongoing care is not a basis for excluding the inmate from eligibility to participate in an alternative custody program authorized by this section.

(j) The secretary or the secretary's designee shall establish a timeline for the application process. The secretary or the secretary's designee shall respond to an applicant within two weeks of receiving the application to inform the inmate that the application was received, and to notify the inmate of the eligibility criteria of the program. The secretary or the secretary's designee shall provide a written notice to the inmate of acceptance or denial into the program. The individualized treatment and rehabilitation plan described in subdivision (f) shall be developed, in consultation with the inmate, after the applicant has been found potentially eligible for participation in the program and no later than 30 calendar days after the potential eligibility determination. Except as necessary to comply with any release notification requirements, the inmate shall be released to the program no later than seven business days following notice of acceptance into the program or, if this is not possible in the case of an inmate to be placed in a residential drug or treatment program or in a transitional care facility, the first day a contracted bed becomes available at the requested location. If the inmate is denied participation in the program, the notice of denial shall specify the reason the inmate was denied. The secretary or the secretary's designee shall maintain a record of the application and notice of denials for participation. The inmate may appeal the decision through normal grievance procedures or reapply for participation in the program 30 days after the notice of the denial.

(k) The secretary or the secretary's designee shall permit program participants to seek and retain employment in the community, attend psychological counseling sessions or educational or vocational training classes, participate in life skills or parenting training, utilize substance abuse treatment services, or seek medical and dental assistance based upon the participant's individualized treatment and release plan. Participation in other rehabilitative services and programs may be approved by the case manager if it is specified as a requirement of the inmate's individualized treatment and rehabilitative case plan. Willful failure of the program participant to return to the place of detention not later than the expiration of any period of time during which the participant is authorized to be away from the place of detention pursuant to this section, unauthorized departures from the place of detention, or tampering with or disabling, or attempting to tamper with or disable, an electronic monitoring device shall subject the participant to a return to custody pursuant to subdivisions (g) and (h). In addition, participants may be subject to forfeiture of credits pursuant to the provisions of Section 2932, or to discipline for violation of rules established by the secretary.

(l) (1) Notwithstanding any other law, the secretary or the secretary's designee shall provide the information specified in paragraph (2) regarding participants in an alternative custody program to the law enforcement agencies of the jurisdiction in which persons participating in an alternative custody program reside.

(2) The information required by paragraph (1) shall consist of the following:

(A) The participant's name, address, and date of birth.

(B) The offense committed by the participant.

(C) The period of time the participant will be subject to an alternative custody program.

(3) The information received by a law enforcement agency pursuant to this subdivision may be used for the purpose of monitoring the impact of an alternative custody program on the community.

(m) It is the intent of the Legislature that the alternative custody program established under this section maintain the highest public confidence, credibility, and public safety. In the furtherance of these standards, the secretary may administer an alternative custody program pursuant to written contracts with appropriate public agencies or entities to provide specified program services. A public agency or entity entering into a contract may not itself employ a person who is in an alternative custody program. The department shall determine the recidivism rate of each participant in an alternative custody program.

(n) An inmate participating in this program shall voluntarily agree to all of the provisions of the program in writing, including that the inmate may be returned to confinement at any time with or without cause, and shall not be charged fees or costs for the program.

(o) (1) The secretary or the secretary's designee shall assist an individual participating in the alternative custody program in obtaining health care coverage, including, but not limited to, assistance with having suspended Medi-Cal benefits reinstated, applying for Medi-Cal benefits, or obtaining health care coverage under a private health plan or policy.

(2) To the extent not covered by a participant's health care coverage, the state shall retain responsibility for the medical, dental, and mental health needs of individuals participating in the alternative custody program.

(p) The secretary shall adopt emergency regulations specifically governing participants in this program.

(q) If a phrase, clause, sentence, or provision of this section or application thereof to a person or circumstance is held invalid, that invalidity shall not affect any other phrase, clause, sentence, or provision or application of this section that can be given effect

without the invalid phrase, clause, sentence, or provision or application and to this end the provisions of this section are declared to be severable.

SEC. 12. Section 2604 of the Penal Code is amended to read:

2604. (a) Except as provided in subdivision (b), an adult housed in state prison is presumed to have the capacity to give informed consent and make a health care decision, to give or revoke an advance health care directive, and to designate or disqualify a surrogate. This presumption is a presumption affecting the burden of proof.

(b) (1) Except as provided in Section 2602, a licensed physician or dentist may file a petition with the Office of Administrative Hearings to request that an administrative law judge make a determination as to a patient's capacity to give informed consent or make a health care decision, and request appointment of a surrogate decisionmaker, if all of the following conditions are satisfied:

(A) The licensed physician or dentist is treating a patient who is an adult housed in state prison.

(B) The licensed physician or dentist is unable to obtain informed consent from the inmate patient because the physician or dentist determines that the inmate patient appears to lack capacity to give informed consent or make a health care decision.

(C) There is no person with legal authority to provide informed consent for, or make decisions concerning the health care of, the inmate patient.

(2) Preference shall be given to the next of kin or a family member as a surrogate decisionmaker over other potential surrogate decisionmakers unless those individuals are unsuitable or unable to serve.

(c) The petition required by subdivision (b) shall allege all of the following:

(1) The inmate patient's current physical condition, describing the health care conditions currently afflicting the inmate patient.

(2) The inmate patient's current mental health condition resulting in the inmate patient's inability to understand the nature and consequences of their need for care such that there is a lack of capacity to give informed consent or make a health care decision.

(3) The deficit or deficits in the inmate patient's mental functions as listed in subdivision (a) of Section 811 of the Probate Code.

(4) An identification of a link, if any, between the deficits identified pursuant to paragraph (3) and an explanation of how the deficits identified pursuant to that paragraph result in the inmate patient's inability to participate in a decision about their health care either knowingly and intelligently or by means of a rational thought process.

(5) A discussion of whether the deficits identified pursuant to paragraph (3) are transient, fixed, or likely to change during the proposed year-long duration of the court order.

(6) The efforts made to obtain informed consent or refusal from the inmate patient and the results of those efforts.

(7) The efforts made to locate next of kin who could act as a surrogate decisionmaker for the inmate patient. If those individuals are located, all of the following shall also be included, so far as the information is known:

(A) The names and addresses of the individuals.

(B) Whether any information exists to suggest that any of those individuals would not act in the inmate patient's best interests.

(C) Whether any of those individuals are otherwise suitable to make health care decisions for the inmate patient.

(8) The probable impact on the inmate patient with, or without, the appointment of a surrogate decisionmaker.

(9) A discussion of the inmate patient's desires, if known, and whether there is an advance health care directive or other documented indication of the inmate patient's directives or desires and how those indications might influence the decision to issue an order. Additionally, any known advanced health care directives executed while the inmate patient had capacity shall be disclosed.

(10) The petitioner's recommendation specifying a qualified and willing surrogate decisionmaker as described in subdivision (q), and the reasons for that recommendation.

(d) The petition shall be served on the inmate patient and the inmate patient's counsel, and filed with the Office of Administrative Hearings on the same day as it was served. The Office of Administrative Hearings shall issue a notice appointing counsel.

(e) (1) At the time the initial petition is filed, the inmate patient shall be provided with counsel and a written notice advising the inmate patient of all of the following:

(A) The right to be present at the hearing.

(B) The right to be represented by counsel at all stages of the proceedings.

(C) The right to present evidence.

(D) The right to cross-examine witnesses.

(E) The right of either party to seek one reconsideration of the administrative law judge's decision per calendar year.

(F) The right to file a petition for writ of administrative mandamus in superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

(G) The right to file a petition for writ of habeas corpus in superior court with respect to any decision.

(2) Counsel for the inmate patient shall have access to all relevant medical and central file records for the inmate patient, but shall not have access to materials unrelated to medical treatment located in the confidential section of the inmate patient's central file. Counsel shall also have access to all health care appeals filed by the inmate patient and responses to those appeals, and, to the extent available, any habeas corpus petitions or health care related litigation filed by, or on behalf of, the inmate patient.

(f) The inmate patient shall be provided with a hearing before an administrative law judge within 30 days of the date of filing the petition, unless counsel for the inmate patient agrees to extend the date of the hearing.

(g) The inmate patient, or the inmate patient's counsel, shall have 14 days from the date of filing of any petition to file a response to the petition, unless a shorter time for the hearing is sought by the licensed physician or dentist and ordered by the administrative law judge, in which case the judge shall set the time for filing a response. The response shall be served to all parties who were served with the initial petition and the attorney for the petitioner.

(h) In case of an emergency, as described in Section 3351 of Title 15 of the California Code of Regulations, the inmate patient's physician or dentist may administer a medical intervention that requires informed consent prior to the date of the administrative hearing. Counsel for the inmate patient shall be notified by the physician or dentist.

(i) In either an initial or renewal proceeding, the inmate patient has the right to contest the finding of an administrative law judge authorizing a surrogate decisionmaker by filing a petition for writ of administrative mandamus pursuant to Section 1094.5 of the Code of Civil Procedure.

(j) In either an initial or renewal proceeding, either party is entitled to file one motion for reconsideration per calendar year in front of the administrative law judge following a determination as to an inmate patient's capacity to give informed consent or make a health care decision. The motion may seek to review the decision for the necessity of a surrogate decisionmaker, the individual appointed under the order, or both. The motion for reconsideration shall not require a formal rehearing unless ordered by the administrative law judge following submission of the motion, or upon the granting of a request for formal rehearing by any party to the action based on a showing of good cause.

(k) (1) To renew an existing order appointing a surrogate decisionmaker, the current physician or dentist, or a previously appointed surrogate decisionmaker shall file a renewal petition. The renewal shall be for an additional year at a time. The renewal hearing on any order issued under this section shall be conducted prior to the expiration of the current order, but not sooner than 10 days after the petition is filed, at which time the inmate patient shall be brought before an administrative law judge for a review of the inmate patient's current medical and mental health condition.

(2) A renewal petition shall be served on the inmate patient and their counsel, and filed with the Office of Administrative Hearings on the same day as it was served. The Office of Administrative Hearings shall issue a written order appointing counsel.

(3) (A) The renewal hearing shall be held in accordance with subdivisions (d) to (g), inclusive.

(B) (i) At the time the renewal petition is filed, the inmate patient shall be provided with counsel and a written notice advising the inmate patient of all of the following:

(I) The right to be present at the hearing.

(II) The right to be represented by counsel at all stages of the proceedings.

(III) The right to present evidence.

(IV) The right to cross-examine witnesses.

(V) The right of either party to seek one reconsideration of the administrative law judge's decision per calendar year.

(VI) The right to file a petition for writ of administrative mandamus in superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

(VII) The right to file a petition for writ of habeas corpus in superior court with respect to any decision.

(ii) Counsel for the inmate patient shall have access to all relevant medical and central file records for the inmate patient, but shall not have access to materials unrelated to medical treatment located in the confidential section of the inmate patient's central file. Counsel shall also have access to all health care appeals filed by the inmate patient and responses to those appeals, and, to the extent available, any habeas corpus petitions or health care related litigation filed by, or on behalf of, the inmate patient.

(4) The renewal petition shall request the matter be reviewed by an administrative law judge, and allege all of the following:

(A) The current status of each of the elements set forth in paragraphs (1) to (8), inclusive, of subdivision (c).

(B) Whether the inmate patient still requires a surrogate decisionmaker.

(C) Whether the inmate patient continues to lack capacity to give informed consent or make a health care decision.

(l) A licensed physician or dentist who submits a petition pursuant to this section shall not be required to obtain a court order pursuant to Section 3201 of the Probate Code prior to administering care that requires informed consent.

(m) This section does not affect the right of an inmate patient who has been determined to lack capacity to give informed consent or make a health care decision and for whom a surrogate decisionmaker has been appointed to do either of the following:

(1) Seek appropriate judicial relief to review the determination or appointment by filing a petition for writ of administrative mandamus pursuant to Section 1094.5 of the Code of Civil Procedure.

(2) File a petition for writ of habeas corpus in superior court regarding the determination or appointment, or any treatment decision by the surrogate decisionmaker.

(n) A licensed physician or other health care provider whose actions under this section are in accordance with reasonable health care standards, a surrogate decisionmaker appointed pursuant to this section, and an administrative law judge shall not be liable for monetary damages or administrative sanctions for decisions made or actions taken consistent with this section and the known and documented desires of the inmate patient, or if unknown, the best interests of the inmate patient.

(o) The determinations required to be made pursuant to subdivisions (c) and (k), and the basis for those determinations, shall be documented in the inmate patient's medical record.

(p) (1) With regard to any petition filed pursuant to subdivision (c) or (k), the administrative law judge shall determine and provide a written order and findings setting forth whether there has been clear and convincing evidence that all of the following occurred:

(A) Adequate notice and an opportunity to be heard has been given to the inmate patient and the inmate patient's counsel.

(B) Reasonable efforts have been made to obtain informed consent from the inmate patient.

(C) As a result of one or more deficits in the inmate patient's mental functions, the inmate patient lacks capacity to give informed consent or make a health care decision and is unlikely to regain that capacity over the next year.

(D) Reasonable efforts have been made to identify family members or relatives who could serve as a surrogate decisionmaker for the inmate patient.

(2) The written decision shall also specify and describe any advance health care directives or other documented indication of the inmate patient's directives or desires regarding health care that were created and validly executed while the inmate patient had capacity.

(q) (1) If all findings required by subdivision (p) are made, the administrative law judge shall appoint a surrogate decisionmaker for health care for the inmate patient. In doing so, the administrative law judge shall consider all reasonable options presented, including those identified in the petition, and weigh how the proposed surrogate decisionmaker would represent the best interests of the inmate patient, the efficacy of achieving timely surrogate decisions, and the urgency of the situation. Family members or

relatives of the inmate patient should be appointed when possible if such an individual is available and the administrative law judge determines the family member or relative will act in the inmate patient's best interests.

(2) An employee of the Department of Corrections and Rehabilitation, or other peace officer, shall not be appointed surrogate decisionmaker for health care for any inmate patient under this section, unless either of the following conditions apply:

(A) The individual is a family member or relative of the inmate patient and will, as determined by the administrative law judge, act in the inmate patient's best interests and consider the inmate patient's personal values and other wishes to the extent those values and wishes are known.

(B) The individual is a health care staff member in a managerial position and does not provide direct care to the inmate patient. A surrogate decisionmaker appointed under this subparagraph may be specified by their functional role at the institution, such as "Chief Physician and Surgeon" or "Chief Medical Executive" to provide clarity as to the active decisionmaker at the institution where the inmate patient is housed, and to anticipate potential personnel changes. When the surrogate decisionmaker is specified by position, rather than by name, the person occupying that specified role at the institution at which the inmate patient is currently housed shall be considered and act as the appointed surrogate decisionmaker.

(3) The order appointing the surrogate decisionmaker shall be written and state the basis for the decision by reference to the particular mandates of this subdivision. The order shall also state that the surrogate decisionmaker shall honor and follow any advance health care directive or other documented indication of the inmate patient's directives or desires, and specify any such directive, order, or documented desire.

(4) The surrogate decisionmaker shall follow the inmate patient's personal values and other wishes to the extent those values and wishes are known.

(r) The administrative law judge's written decision and order appointing a surrogate decisionmaker shall be placed in the inmate patient's Department of Corrections and Rehabilitation health care record.

(s) An order entered under this section is valid for one year and the expiration date shall be written on the order. The order shall be valid at any state correctional facility within California. If the inmate patient is moved, the sending institution shall inform the receiving institution of the existence of an order entered under this section.

(t) (1) This section applies only to orders appointing a surrogate decisionmaker with authority to make a health care decision for an inmate patient who lacks capacity to give informed consent or make a health care decision.

(2) This section does not apply to existing law regarding health care to be provided in an emergency or existing law governing health care for unemancipated minors. This section shall not be used for the purposes of determining or directing an inmate patient's control over finances, marital status, or for convulsive treatment, as described in Section 5325 of the Welfare and Institutions Code, psychosurgery, as defined in Section 5325 of the Welfare and Institutions Code, sterilization, abortion, or involuntary administration of psychiatric medication, as described in Section 2602.

(u) The Secretary of the Department of Corrections and Rehabilitation may adopt regulations as necessary to carry out the purposes of this section.

SEC. 13. Section 29805 of the Penal Code is amended to read:

29805. (a) Except as provided in Section 29855, subdivision (a) of Section 29800, or subdivision (b), any person who has been convicted of, or has an outstanding warrant for, a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, subdivision (f) of Section 148.5, Section 171b, paragraph (1) of subdivision (a) of Section 171c, Section 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 422.6, 626.9, 646.9, 830.95, 17500, 17510, 25300, 25800, 30315, or 32625, subdivision (b) or (d) of Section 26100, or Section 27510 of this code, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, Section 487 if the property taken was a firearm, or of the conduct punished in subdivision (c) of Section 27590, and who, within 10 years of the conviction, or if the individual has an outstanding warrant, owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(b) A person who is convicted, on or after January 1, 2019, of a misdemeanor violation of Section 273.5, and who subsequently owns, purchases, receives, or has in possession or under custody or control, a firearm is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(c) The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in Section 29855 or 29860.

SEC. 14. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) (1) Except as provided in Section 828, a case file may be inspected only by the following:

(A) Court personnel.

(B) The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.

(C) The minor who is the subject of the proceeding.

(D) The minor's parent or guardian.

(E) The attorneys for the parties, judges, referees, other hearing officers, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.

(F) The county counsel, city attorney, or any other attorney representing the petitioning agency in a dependency action.

(G) The superintendent or designee of the school district where the minor is enrolled or attending school.

(H) Members of the child protective agencies as described in Section 11165.9 of the Penal Code.

(I) The State Department of Social Services, to carry out its duties pursuant to Division 9 (commencing with Section 10000) of this code and Part 5 (commencing with Section 7900) of Division 12 of the Family Code to oversee and monitor county child welfare agencies, children in foster care or receiving foster care assistance, and out-of-state placements, Section 10850.4, and paragraph (2).

(J) (i) Authorized staff who are employed by, or authorized staff of entities who are licensed by, the State Department of Social Services, as necessary to the performance of their duties related to resource family approval, and authorized staff who are employed by the State Department of Social Services as necessary to inspect, approve, or license, and monitor or investigate community care facilities or resource families, and to ensure that the standards of care and services provided in those facilities are adequate and appropriate, and to ascertain compliance with the rules and regulations to which the facilities are subject.

(ii) The confidential information shall remain confidential except for purposes of inspection, approval or licensing, or monitoring or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code and Article 2 (commencing with Section 16519.5) of Chapter 5 of Part 4 of Division 9. The confidential information may also be used by the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and may not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Social Services determines that no further action will be taken in the matter. Except as otherwise provided in this subdivision, confidential information shall not contain the name of the minor.

(K) Members of children's multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor.

(L) A judge, commissioner, or other hearing officer assigned to a family law case with issues concerning custody or visitation, or both, involving the minor, and the following persons, if actively participating in the family law case: a family court mediator assigned to a case involving the minor pursuant to Article 1 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the Family Code, a court-appointed evaluator or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to Section 3111 or 3118 of the Family Code, and counsel appointed for the minor in the family law case pursuant to Section 3150 of the Family Code. Prior to allowing counsel appointed for the minor in the family law case to inspect the file, the court clerk may require counsel to provide a certified copy of the court order appointing the minor's counsel.

(M) When acting within the scope of investigative duties of an active case, a statutorily authorized or court-appointed investigator who is conducting an investigation pursuant to Section 7663, 7851, or 9001 of the Family Code, or who is actively participating in a guardianship case involving a minor pursuant to Part 2 (commencing with Section 1500) of Division 4 of the Probate Code and acting within the scope of the investigator's duties in that case.

(N) A local child support agency for the purpose of establishing paternity and establishing and enforcing child support orders.

(O) Juvenile justice commissions as established under Section 225. The confidentiality provisions of Section 10850 shall apply to a juvenile justice commission and its members.

(P) The Department of Justice, to carry out its duties pursuant to Sections 290.008 and 290.08 of the Penal Code as the repository for sex offender registration and notification in California.

(Q) Any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.

(R) A probation officer who is preparing a report pursuant to Section 1178 on behalf of a person who was in the custody of the Department of Corrections and Rehabilitation, Division of Juvenile Justice and who has petitioned the Board of Juvenile Hearings for an honorable discharge.

(2) (A) Notwithstanding any other law and subject to subparagraph (A) of paragraph (3), juvenile case files, except those relating to matters within the jurisdiction of the court pursuant to Section 601 or 602, that pertain to a deceased child who was within the jurisdiction of the juvenile court pursuant to Section 300, shall be released to the public pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. Any information relating to another child or that could identify another child, except for information about the deceased, shall be redacted from the juvenile case file prior to release, unless a specific order is made by the juvenile court to the contrary. Except as provided in this paragraph, the presiding judge of the juvenile court may issue an order prohibiting or limiting access to the juvenile case file, or any portion thereof, of a deceased child only upon a showing by a preponderance of evidence that release of the juvenile case file or any portion thereof is detrimental to the safety, protection, or physical or emotional well-being of another child who is directly or indirectly connected to the juvenile case that is the subject of the petition.

(B) This paragraph represents a presumption in favor of the release of documents when a child is deceased unless the statutory reasons for confidentiality are shown to exist.

(C) If a child whose records are sought has died, and documents are sought pursuant to this paragraph, no weighing or balancing of the interests of those other than a child is permitted.

(D) A petition filed under this paragraph shall be served on interested parties by the petitioner, if the petitioner is in possession of their identity and address, and on the custodian of records. Upon receiving a petition, the custodian of records shall serve a copy of the request upon all interested parties that have not been served by the petitioner or on the interested parties served by the petitioner if the custodian of records possesses information, such as a more recent address, indicating that the service by the petitioner may have been ineffective.

(E) The custodian of records shall serve the petition within 10 calendar days of receipt. If an interested party, including the custodian of records, objects to the petition, the party shall file and serve the objection on the petitioning party no later than 15 calendar days after service of the petition.

(F) The petitioning party shall have 10 calendar days to file a reply. The juvenile court shall set the matter for hearing no more than 60 calendar days from the date the petition is served on the custodian of records. The court shall render its decision within 30 days of the hearing. The matter shall be decided solely upon the basis of the petition and supporting exhibits and declarations, if any, the objection and any supporting exhibits or declarations, if any, and the reply and any supporting declarations or exhibits thereto, and argument at hearing. The court may, solely upon its own motion, order the appearance of witnesses. If an objection is not filed to the petition, the court shall review the petition and issue its decision within 10 calendar days of the final day for filing the objection. An order of the court shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ.

(3) Access to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 300 shall be limited as follows:

(A) If a juvenile case file, or any portion thereof, is privileged or confidential pursuant to any other state law or federal law or regulation, the requirements of that state law or federal law or regulation prohibiting or limiting release of the juvenile case file or any portions thereof shall prevail. Unless a person is listed in subparagraphs (A) to (P), inclusive, of paragraph (1) and is entitled to access under the other state law or federal law or regulation without a court order, all those seeking access, pursuant to other authorization, to portions of, or information relating to the contents of, juvenile case files protected under another state law or federal law or regulation, shall petition the juvenile court. The juvenile court may only release the portion of, or information relating to the contents of, juvenile case files protected by another state law or federal law or regulation if disclosure is not detrimental to the safety, protection, or physical or emotional well-being of a child who is

directly or indirectly connected to the juvenile case that is the subject of the petition. This paragraph does not limit the ability of the juvenile court to carry out its duties in conducting juvenile court proceedings.

(B) Prior to the release of the juvenile case file or any portion thereof, the court shall afford due process, including a notice of, and an opportunity to file an objection to, the release of the record or report to all interested parties.

(4) A juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, may not be disseminated by the receiving agencies to a person or agency, other than a person or agency authorized to receive documents pursuant to this section. Further, a juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, may not be made as an attachment to any other documents without the prior approval of the presiding judge of the juvenile court, unless it is used in connection with, and in the course of, a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(5) Individuals listed in subparagraphs (A), (B), (C), (D), (E), (F), (H), (I), (J), and (P) of paragraph (1) may also receive copies of the case file. For authorized staff of entities who are licensed by the State Department of Social Services, the confidential information shall be obtained through a child protective agency, as defined in subparagraph (H) of paragraph (1). In these circumstances, the requirements of paragraph (4) shall continue to apply to the information received.

(6) An individual other than a person described in subparagraphs (A) to (P), inclusive, of paragraph (1) who files a notice of appeal or petition for writ challenging a juvenile court order, or who is a respondent in that appeal or real party in interest in that writ proceeding, may, for purposes of that appeal or writ proceeding, inspect and copy any records in a juvenile case file to which the individual was previously granted access by the juvenile court pursuant to subparagraph (Q) of paragraph (1), including any records or portions thereof that are made a part of the appellate record. The requirements of paragraph (3) shall continue to apply to any other record, or a portion thereof, in the juvenile case file or made a part of the appellate record. The requirements of paragraph (4) shall continue to apply to files received pursuant to this paragraph. The Judicial Council shall adopt rules to implement this paragraph.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality to promote more effective communication among juvenile courts, family courts, law enforcement agencies, and schools to ensure the rehabilitation of juvenile criminal offenders as well as to lessen the potential for drug use, violence, other forms of delinquency, and child abuse.

(2) (A) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school, kindergarten to grade 12, inclusive, has been found by a court of competent jurisdiction to have committed a felony or misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Section 290 of the Penal Code, assault or battery, larceny, vandalism, or graffiti shall be provided by the court, within seven days, to the superintendent of the school district of attendance. Written notice shall include only the offense found to have been committed by the minor and the disposition of the minor's case. This notice shall be expeditiously transmitted by the district superintendent to the principal at the school of attendance. The principal shall expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the minor. In addition, the principal shall disseminate the information to any teacher or administrator directly supervising or reporting on the behavior or progress of the minor whom the principal believes needs the information to work with the pupil in an appropriate fashion to avoid being needlessly vulnerable or to protect other persons from needless vulnerability.

(B) Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose of rehabilitating the minor and protecting students and staff, and shall not be further disseminated by the teacher, counselor, or administrator, except insofar as communication with the juvenile, the juvenile's parents or guardians, law enforcement personnel, and the juvenile's probation officer is necessary to effectuate the juvenile's rehabilitation or to protect students and staff.

(C) An intentional violation of the confidentiality provisions of this paragraph is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b), the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance, who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the

court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

(d) (1) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: “Unlawful Dissemination Of This Information Is A Misdemeanor.” Any information received from the court shall be kept in a separate confidential file at the school of attendance and shall be transferred to the minor’s subsequent schools of attendance and maintained until the minor graduates from high school, is released from juvenile court jurisdiction, or reaches 18 years of age, whichever occurs first. After that time the confidential record shall be destroyed. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or the minor’s parent or guardian shall have the right to make a written request to the principal of the school that the minor’s school records be reviewed to ensure that the record has been destroyed. Upon completion of the requested review and no later than 30 days after the request for the review was received, the principal or a designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred.

(2) Except as provided in paragraph (2) of subdivision (b), liability shall not attach to a person who transmits or fails to transmit notice or information required under subdivision (b).

(e) For purposes of this section, a “juvenile case file” means a petition filed in a juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making the probation officer’s report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer.

(f) The persons described in subparagraphs (A), (E), (F), (H), (K), (L), (M), and (N) of paragraph (1) of subdivision (a) include persons serving in a similar capacity for an Indian tribe, reservation, or tribal court when the case file involves a child who is a member of, or who is eligible for membership in, that tribe.

(g) A case file that is covered by, or included in, an order of the court sealing a record pursuant to Section 781 or 786 may not be inspected, except as specified by Section 781 or 786.

SEC. 15. Any section of any act enacted during the 2019 calendar year that takes effect on or before January 1, 2020, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted before, or subsequent to, the enactment of this act.