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SB-827 Public Safety Omnibus. (2021-2022)

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Senate Bill No. 827

CHAPTER 434

An act to amend Section 1031 of the Government Code, to amend Section 11361.8 of the Health and Safety Code, and to amend Sections 422.77, 1203.01, 1203.099, 1203.4b, 1485.55, 2603, 2905, 3453, 5076.1, 5076.2, 5076.3, 11105, 13600, 14201, 14202, 16590, and 18010 of, to add Section 22296 to, and to repeal Sections 597f, 1170.17, 1170.19, 22010, 22015, and 22090 of, the Penal Code, relating to public safety.

[Approved by Governor September 30, 2021. Filed with Secretary of State September 30, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 827, Committee on Public Safety. Public Safety Omnibus.

(1) Existing law establishes certain minimum standards for public officers or employees declared by law to be peace officers. The minimum education requirement is high school graduation, passing an equivalency test or high school proficiency examination, graduating from a private high school, or attaining a 2-year, 4-year, or advanced degree from an accredited institution. Existing law requires that accreditation must be from a body recognized by the United States Department of Education or holding a full membership in specified organizations.

This bill would revise the accreditation standards for high schools, colleges, and universities to include those holding a full membership in Cognition.

(2) Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act, authorizes a person currently convicted of a specified offense who would have not been guilty of an offense, or guilty of a lesser offense, under the act, if the act had been in effect at the time of the conviction, may petition or apply to have the sentence reduced, or if they have completed their sentence, to have the conviction dismissed and the record sealed in accordance with the act.

This bill would clarify that the above relief applies to any person who would not have been found guilty of their convicted offense had the act been in effect at the time of conviction.

(3) Existing law punishes 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. Existing law also authorizes a peace officer or other public entity to take possession of the animal and impose a lien on the animal for the costs of caring for the animal.

This bill would repeal provisions that are duplicative of existing law.

(4) Existing law authorizes a prosecutor to prosecute a minor in a court of criminal jurisdiction, without first having a proceeding about whether the minor is a fit subject for juvenile court, in certain circumstances. Existing law requires that if the minor is not transferred to a juvenile court, either before or after conviction, they shall receive the same sentence as an adult. Existing law, the Public Safety and Rehabilitation Act of 2016, as enacted by Proposition 57 at the November 8, 2016, statewide general election,

requires a prosecutor to first petition a juvenile court for a transfer to a court of criminal jurisdiction before criminal proceedings against a minor can begin in a court of criminal jurisdiction.

This bill would repeal those provisions that authorize a prosecutor to begin a criminal case against a minor in a criminal court and that would impose an adult sentence for a minor convicted in criminal court and not transferred to juvenile court.

(5) Existing law requires the clerk of the court to mail statements filed by specified individuals, including the judge, district attorney, and probation officer, along with charging documents, a copy of waiver and plea forms, and other specified documents, to the prison or other institution to which the person convicted is delivered. Existing law also requires the clerk to, among other things, mail a copy of any statement submitted by the attorney for the defendant to the district attorney.

This bill would authorize the clerk of the court to deliver these documents by electronic means rather than by mail, if the recipient consents and is not the person convicted.

(6) Existing law requires that the terms of probation granted to a person who has been convicted of domestic violence include, among other things, successful completion of a batterer's program or, if a batterer's program is not available, another appropriate counseling program. Existing law requires a batterer's program to be approved by the probation department and specifies the standards for approving batterer's programs. Existing law, until July 1, 2022, authorizes the Counties of Napa, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, and Yolo to offer an alternative program for individuals convicted of domestic violence.

This bill would extend the authorization for those counties to offer an alternative program until July 1, 2023.

(7) Existing law allows a person convicted of any infraction or misdemeanor, or any felony for which the person was granted probation or participated as an incarcerated member of a hand crew in the California Conservation Camp program, except as specified, to petition the court to have the pleading dismissed, as described, thus releasing the person of any penalties and disabilities of conviction, except as otherwise provided.

This bill would clarify that individuals who have been convicted of specified crimes are ineligible for this relief.

(8) Existing law generally prohibits a person sentenced to imprisonment in a county jail from being administered any psychiatric medication without the inmate's prior informed consent. Existing law, until January 1, 2022, provides additional protections to an inmate confined in a county jail from involuntarily being administered psychiatric medication, including a requirement that a jail first make a documented attempt to locate an available bed for the inmate in a community-based treatment facility in lieu of seeking to administer involuntary medication and a requirement that any court-ordered psychiatric medication be administered in consultation with a psychiatrist who is not involved in the treatment of the inmate at the jail, if one is available. Under existing law, until January 1, 2022, if the inmate is awaiting resolution of a criminal case, requires that a hearing to administer involuntary medication on a nonemergency basis be held before, and any requests for ex parte orders be submitted to, a judge in the superior court where the criminal case is pending and sets specified limits on the amount of time those orders are valid. Existing law repeals these additional protections on January 1, 2022, at which time previously operative provisions of existing law become operative again.

This bill would extend the operation of these provisions until January 1, 2025.

(9) Existing law requires the Department of Corrections and Rehabilitation to conduct an Institutional Classification Committee review for every youth offender to provide special classification consideration, as specified. Under existing law, a youth offender is required to be considered for placement at a lower security level than the level that corresponds with their classification score, or placement in a facility that permits increased access to programs, based on the Institutional Classification Committee review, as specified.

The bill would require the department to automatically grant a youth offender a lower security level than the level that corresponds with that individual's classification score or placement in a facility that permits increased access to programs. The bill would require youth offenders who have committed serious in-custody offenses to be reviewed by a classification committee.

(10) Existing law establishes the Board of Parole Hearings that is composed of 17 commissioners appointed by the Governor, and subject to Senate confirmation, for staggered 3-year terms. Under existing law, the board conducts parole consideration hearings, parole rescission hearings, and parole progress hearings for adults, among other responsibilities. Existing law requires the board, when it performs its functions by meeting en banc in either public or executive sessions to decide matters of general policy, to have at least 7 members present.

This bill would instead require the board to have at least a majority of commissioners holding office on the date the matter is heard present.

Existing law authorizes the board to meet and transact business in panels. Existing law requires, in the event of a tie vote, that matter be referred to a randomly selected committee composed of a majority of the commissioners specifically appointed to hear

adult parole matters and who are holding office at the time.

This bill would instead require that matter be referred for an en banc review by the board, with the commissioners involved in the tie vote recused from the review. The bill would require the commissioners conducting the review to consider the full record that was before the panel that resulted in the tie vote, and would limit the review to that record.

(11) Existing law permits the Attorney General to furnish state summary criminal history information, as defined, to specified individuals, organizations, and agencies upon a showing of compelling need. Existing law makes it a misdemeanor for a person authorized to receive the state criminal history information to furnish the information to an unauthorized person.

This bill would additionally permit the Attorney General to furnish that information to the Governor when the Governor recommends to the Director of the Selective Service System applicants for appointment to the state's Selective Service System local boards. By creating a new law changing the scope of a crime, this bill would impose a state-mandated local program.

(12) Existing law requires the Department of Justice, upon appropriation by the Legislature, to establish and maintain the Violent Crime Information Network within the Violent Crime Information Center in the department, to enable the department crime analysts with expertise in child abuse, missing persons, child abductions, and sexual assaults to electronically share their data, analysis, and findings on violent crime cases, as specified.

This bill would remove the requirement that the department establish and maintain the Violent Crime Information Network, and instead require the department to employ, upon the appropriation of funds by the Legislature, those crime analysts and require those analysts to electronically share their data, as specified.

Existing law requires the Attorney General, upon appropriation by the Legislature, to establish and maintain the Violent Crime Information System to track and monitor violent offenders and their activities, as specified.

This bill would instead require the Attorney General, upon appropriation by the Legislature, to establish and maintain the California Sex and Arson Registry to track and monitor offenders and their activities.

(13) Existing law establishes the Division of Juvenile Justice within the Department of Corrections and Rehabilitation to operate facilities to house specified juvenile offenders. Existing law establishes the Commission on Correction Peace Officer Standards and Training (CPOST) within the Department of Corrections and Rehabilitation. Existing law requires the executive board of the CPOST to be comprised of 6 voting members, 3 appointed by the Department of Corrections and Rehabilitation, one of whom represents either the Division of Juvenile Justice or the Division of Rehabilitative Programs. Existing law requires the Division of Juvenile Justice to close on June 30, 2023.

This bill would make conforming changes to the above provision to reflect the closure of the Division of Juvenile Justice by requiring that after June 30, 2023, one voting member of the CPOST represent the Division of Rehabilitative Programs or the Division of Adult Parole Operations.

(14) Existing law categorizes certain weapons, including nunchaku, as generally prohibited weapons, and, except as specified, subjects a person who manufactures, imports, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses, any nunchaku to imprisonment in a county jail, as specified. Existing law also declares nunchaku to be a nuisance and authorizes the Attorney General, a district attorney, or a city attorney to bring an action to enjoin any of the activities stated above.

This bill would remove nunchaku from the list of generally prohibited weapons and repeal its designation as a nuisance. The bill would clarify that a "billy," "blackjack," or "slungshot" does not include a nunchaku.

(15) This bill would make additional technical, nonsubstantive changes.

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

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

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 1031 of the Government Code is amended to read:

1031. Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:

(a) Be a citizen of the United States or a permanent resident alien who is eligible for and has applied for citizenship, except as provided in Section 2267 of the Vehicle Code.

(b) Be at least 18 years of age.

(c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose a criminal record.

(d) Be of good moral character, as determined by a thorough background investigation.

(e) Be a high school graduate, pass the General Education Development Test or other high school equivalency test approved by the State Department of Education that indicates high school graduation level, pass the California High School Proficiency Examination, or have attained a two-year, four-year, or advanced degree from an accredited college or university. The high school shall be either a United States public school, an accredited United States Department of Defense high school, or an accredited or approved public or nonpublic high school. Any accreditation or approval required by this subdivision shall be from a state or local government educational agency using local or state government approved accreditation, licensing, registration, or other approval standards, a regional accrediting association, an accrediting association recognized by the Secretary of the United States Department of Education, an accrediting association holding full membership in the National Council for Private School Accreditation (NCPSA), an organization holding full membership in AdvancED or Cognia, an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFSSAA).

(f) Be found to be free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of the powers of a peace officer.

(1) Physical condition shall be evaluated by a licensed physician and surgeon.

(2) Emotional and mental condition shall be evaluated by either of the following:

(A) A physician and surgeon who holds a valid California license to practice medicine, has successfully completed a postgraduate medical residency education program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program.

(B) A psychologist licensed by the California Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued postdoctorate.

The physician and surgeon or psychologist shall also have met any applicable education and training procedures set forth by the Commission on Peace Officer Standards and Training designed for the conduct of preemployment psychological screening of peace officers.

(g) This section shall not be construed to preclude the adoption of additional or higher standards, including age.

SEC. 2. Section 11361.8 of the Health and Safety Code is amended to read:

11361.8. (a) A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense, or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in their case to request resentencing or dismissal in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act.

(b) Upon receiving a petition under subdivision (a), the court shall presume the petitioner satisfies the criteria in subdivision (a) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subdivision (a), the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.

(1) In exercising its discretion, the court may consider, but shall not be limited to evidence provided for in subdivision (b) of Section 1170.18 of the Penal Code.

(2) As used in this section, "unreasonable risk of danger to public safety" has the same meaning as provided in subdivision (c) of Section 1170.18 of the Penal Code.

(c) A person who is serving a sentence and is resentenced pursuant to subdivision (b) shall be given credit for any time already served and shall be subject to supervision for one year following completion of their time in custody or shall be subject to whatever supervision time they would have otherwise been subject to after release, whichever is shorter, unless the court, in its discretion, as part of its resentencing order, releases the person from supervision. Such person is subject to parole supervision under Section 3000.08 of the Penal Code or postrelease community supervision under subdivision (a) of Section 3451 of the Penal Code by the designated agency and the jurisdiction of the court in the county in which the offender is released or resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke supervision and impose a term of custody.

(d) Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.

(e) A person who has completed their sentence whether by trial or open or negotiated plea, who would not have been guilty of the conviction offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in their case to have the conviction dismissed and sealed because the prior conviction is now legally invalid or redesignated as a misdemeanor or infraction in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act.

(f) The court shall presume the petitioner satisfies the criteria in subdivision (e) unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision (e). Once the applicant satisfies the criteria in subdivision (e), the court shall redesignate the conviction as a misdemeanor or infraction or dismiss and seal the conviction as legally invalid as now established under the Control, Regulate and Tax Adult Use of Marijuana Act.

(g) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision (e).

(h) Any felony conviction that is recalled and resentenced under subdivision (b) or designated as a misdemeanor or infraction under subdivision (f) shall be considered a misdemeanor or infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subdivision (b) or designated as an infraction under subdivision (f) shall be considered an infraction for all purposes.

(i) If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.

(j) Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.

(k) Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of the Control, Regulate and Tax Adult Use of Marijuana Act.

(l) A resentencing hearing ordered under the Control, Regulate and Tax Adult Use of Marijuana Act shall constitute a "post-conviction release proceeding" under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marsy's Law).

(m) The provisions of this section shall apply equally to juvenile delinquency adjudications and dispositions under Section 602 of the Welfare and Institutions Code if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act.

(n) The Judicial Council shall promulgate and make available all necessary forms to enable the filing of the petitions and applications provided in this section.

SEC. 3. Section 422.77 of the Penal Code is amended to read:

422.77. (a) Any willful and knowing violation of any order issued pursuant to subdivision (b) or (c) of Section 52.1 of the Civil Code shall be a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

(b) A person who has previously been convicted one or more times of violating an order issued pursuant to subdivision (b) or (c) of Section 52.1 of the Civil Code upon charges separately brought and tried shall be imprisoned in the county jail for not more than one year. Subject to the discretion of the court, the prosecution shall have the opportunity to present witnesses and relevant evidence at the time of the sentencing of a defendant pursuant to this subdivision.

(c) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to Section 52.1 of the Civil Code.

(d) The court may order a defendant who is convicted of a hate crime to perform a minimum of community service, not to exceed 400 hours, to be performed over a period not to exceed 350 days, during a time other than their hours of employment or school attendance.

SEC. 4. Section 597f of the Penal Code is repealed.

SEC. 5. Section 1170.17 of the Penal Code is repealed.

SEC. 6. Section 1170.19 of the Penal Code is repealed.

SEC. 7. Section 1203.01 of the Penal Code is amended to read:

1203.01. (a) Immediately after judgment has been pronounced, the judge and the district attorney, respectively, may cause to be filed with the clerk of the court a brief statement of their views respecting the person convicted or sentenced and the crime committed, together with any reports the probation officer may have filed relative to the prisoner. The judge and district attorney shall cause those statements to be filed if no probation officer's report has been filed. The attorney for the defendant and the law enforcement agency that investigated the case may likewise file with the clerk of the court statements of their views respecting the defendant and the crime of which they were convicted. Immediately after the filing of those statements and reports, the clerk of the court shall mail a copy thereof, certified by that clerk, with postage prepaid, addressed to the Department of Corrections and Rehabilitation at the prison or other institution to which the person convicted is delivered. The clerk shall also mail a copy of any statement submitted by the court, district attorney, or law enforcement agency, pursuant to this section, with postage prepaid, addressed to the attorney for the defendant, if any, and to the defendant, in care of the Department of Corrections and Rehabilitation, and a copy of any statement submitted by the attorney for the defendant, with postage prepaid, shall be mailed to the district attorney.

(b) (1) In all cases in which the judgment imposed includes a sentence of death or an indeterminate term with or without the possibility of parole, the clerk shall, within 60 days after judgment has been pronounced, mail with postage prepaid, to the prison or other institution to which the person convicted is delivered, a copy of the charging documents, a copy of waiver and plea forms, if any, the transcript of the proceedings at the time of the defendant's guilty or nolo contendere plea, if the defendant pleaded guilty or nolo contendere, and the transcript of the proceedings at the time of sentencing.

(2) In all other cases not described in paragraph (1), the clerk shall mail with postage prepaid, to the prison or other institution to which the person convicted is delivered, a copy of the charging documents, a copy of the waiver and plea forms, if any, and upon written request by the Department of Corrections and Rehabilitation or by an inmate, or by their counsel, for, among other purposes on a particular case, appeals, review of custody credits and release dates, and restitution orders, the transcript of the proceedings at the time of the defendant's guilty or nolo contendere plea, if the defendant pleaded guilty or nolo contendere, and the transcript of the proceedings at the time of sentencing.

(c) With the consent of the recipient expressed in writing, or orally on the record, the clerk of the court may deliver the documents, or the data contained in the documents, described in subdivisions (a) and (b) by electronic means rather than by mail if the recipient is not the person convicted.

SEC. 8. Section 1203.099 of the Penal Code is amended to read:

1203.099. (a) The Counties of Napa, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, and Yolo may offer a program for individuals convicted of domestic violence that does not comply with the requirement of the batterer's program in Sections 1203.097 and 1203.098 if the program meets all of the following conditions:

(1) The county develops the program in consultation with the domestic violence service providers and other relevant community partners.

(2) The county performs a risk and needs assessment utilizing an assessment demonstrated to be appropriate for domestic violence offenders for each offender entering the program.

(3) The offender's treatment within the program is based on the findings of the risk and needs assessment.

(4) The program includes components which are evidence-based or promising practices.

(5) The program has a comprehensive written curriculum that informs the operations of the program and outlines the treatment and intervention modalities.

(6) The offender's treatment within the program is for not less than one year in length, unless an alternative length is established by a validated risk and needs assessment completed by the probation department or an organization approved by the probation department.

(7) The county collects all of the following data for participants in the program:

- (A) The offender's demographic information, including age, gender, race, ethnicity, marital status, familial status, and employment status.
- (B) The offender's criminal history.
- (C) The offender's risk level as determined by the risk and needs assessment.
- (D) The treatment provided to the offender during the program and if the offender completed that treatment.
- (E) The offender's outcome at the time of program completion, and six months after completion, including subsequent restraining order violations, arrests and convictions, and feedback provided by the victim if the victim desires to participate.

(8) The county reports all of the following information annually to the Legislature:

- (A) The risk and needs assessment tool used for the program.
- (B) The curriculum used by each program.
- (C) The number of participants with a program length other than one year, and the alternative program lengths used.
- (D) Individual data on the number of offenders participating in the program.
- (E) Individual data for the items described in paragraph (7).

(b) Offenders who complete a program described in subdivision (a) shall be deemed to have met the batterer's program requirements set forth in Section 1203.097.

(c) As used in this section, the following definitions shall apply:

(1) "Evidence-based program or practice" means a program or practice that has a high level of research indicating its effectiveness, determined as a result of multiple rigorous evaluations including randomized controlled trials and evaluations that incorporate strong comparison group designs, or a single large multisite randomized study, and, typically, has specified procedures that allow for successful replication.

(2) "Promising program or practice" means a program or practice that has some research demonstrating its effectiveness but does not meet the full criteria for an evidence-based designation.

(d) A report to be submitted pursuant to paragraph (8) of subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(e) This section shall become operative on July 1, 2019.

(f) This section shall remain in effect only until July 1, 2023, and as of that date is repealed.

SEC. 9. Section 1203.4b of the Penal Code is amended to read:

1203.4b. (a) (1) If a defendant successfully participated in the California Conservation Camp program as an incarcerated individual hand crew member, as determined by the Secretary of the Department of Corrections and Rehabilitation, or successfully participated as a member of a county incarcerated individual hand crew, as determined by the appropriate county authority, and has been released from custody, the defendant is eligible for relief pursuant to this section, except that incarcerated individuals who have been convicted of any of the following crimes are automatically ineligible for relief pursuant to this section:

- (A) Murder.
- (B) Kidnapping.
- (C) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
- (D) Lewd acts on a child under 14 years of age, as defined in Section 288.
- (E) Any felony punishable by death or imprisonment in the state prison for life.
- (F) Any sex offense requiring registration pursuant to Section 290.
- (G) Escape from a secure perimeter within the previous 10 years.

(H) Arson.

(2) Any denial of relief pursuant to this section shall be without prejudice.

(3) For purposes of this subdivision, successful participation in a conservation camp program and successful participation as a member of a county incarcerated individual hand crew, as determined by the appropriate county authority, means the incarcerated individual adequately performed their duties without any conduct that warranted removal from the program.

(b) (1) The defendant may file a petition for relief with the court in the county where the defendant was sentenced. The court shall provide a copy of the petition to the secretary, or, in the case of a county incarcerated individual hand crew member, the appropriate county authority.

(2) If the secretary or appropriate county authority certifies to the court that the defendant successfully participated in the incarcerated individual conservation camp program, or successfully participated as a member of a county incarcerated individual hand crew, as determined by the appropriate county authority, as specified in subdivision (a), and has been released from custody, the court, in its discretion and in the interests of justice, may issue an order pursuant to subdivision (c).

(3) To be eligible for relief pursuant to this section, the defendant is not required to complete the term of their probation, parole, or supervised release. Notwithstanding any other law, the court, in providing relief pursuant to this section, shall order early termination of probation, parole, or supervised release if the court determines that the defendant has not violated any terms or conditions of probation, parole, or supervised release prior to, and during the pendency of, the petition for relief pursuant to this section.

(4) All convictions for which the defendant is serving a sentence at the time the defendant successfully participates in a program as specified in subdivision (a) are subject to relief pursuant to this section, except that incarcerated individuals who have been convicted of any of the crimes listed in paragraph (1) of subdivision (a) are automatically ineligible for relief pursuant to this section.

(5) (A) A defendant who is granted an order pursuant to this section shall not be required to disclose the conviction on an application for licensure by any state or local agency.

(B) This paragraph does not apply to an application for licensure by the Commission on Teacher Credentialing, a position as a peace officer, public office, or for contracting with the California State Lottery Commission.

(c) (1) If the requirements of this section are met, the court, in its discretion and in the interest of justice, may permit the defendant to withdraw the plea of guilty or plea of nolo contendere and enter a plea of not guilty, or, if the defendant has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty, and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and the defendant shall thereafter be released from all penalties and disabilities resulting from the offense of which the defendant has been convicted, except as provided in Section 13555 of the Vehicle Code.

(2) The relief available pursuant to this section shall not be granted if the defendant is currently charged with the commission of any other offense.

(3) The defendant may make the application and change of plea in person or by attorney.

(d) Relief granted pursuant to this section is subject to the following conditions:

(1) In any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the accusation or information had not been dismissed.

(2) The order shall state, and the defendant shall be informed, that the order does not relieve the defendant of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for licensure by the Commission on Teacher Credentialing, a peace officer, public office, or for contracting with the California State Lottery Commission.

(3) Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in the person's custody or control any firearm or prevent their conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

(4) Dismissal of an accusation or information underlying a conviction pursuant to this section does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

(e) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief.

(2) It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(f) If, after receiving notice pursuant to subdivision (e), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

SEC. 10. Section 1485.55 of the Penal Code is amended to read:

1485.55. (a) In a contested proceeding, if a court has granted a writ of habeas corpus or when, pursuant to Section 1473.6, the court vacates a judgment, and if the court has found that the person is factually innocent, that finding shall be binding on the California Victim Compensation Board for a claim presented to the board, and upon application by the person, the board shall, without a hearing, recommend to the Legislature that an appropriation be made and the claim paid pursuant to Section 4904.

(b) In a contested or uncontested proceeding, if a court has granted a writ of habeas corpus or vacated a judgment pursuant to Section 1473.6 or paragraph (2) of subdivision (a) of Section 1473.7, the person may move for a finding of factual innocence by a preponderance of the evidence that the crime with which they were charged was either not committed at all or, if committed, was not committed by the petitioner.

(c) If a court makes a finding that the petitioner has proven their factual innocence by a preponderance of the evidence pursuant to subdivision (b), the board shall, without a hearing, recommend to the Legislature that an appropriation be made and any claim filed shall be paid pursuant to Section 4904.

(d) A presumption does not exist in any other proceeding for failure to make a motion or obtain a favorable ruling pursuant to subdivision (b).

(e) If a federal court, after granting a writ of habeas corpus, pursuant to a nonstatutory motion or request, finds a petitioner factually innocent by no less than a preponderance of the evidence that the crime with which they were charged was either not committed at all or, if committed, was not committed by the petitioner, the board shall, without a hearing, recommend to the Legislature that an appropriation be made and any claim filed shall be paid pursuant to Section 4904.

SEC. 11. Section 2603 of the Penal Code, as amended by Section 101 of Chapter 423 of the Statutes of 2018, is amended to read:

2603. (a) Except as provided in subdivision (b), an inmate confined in a county jail shall not be administered any psychiatric medication without their prior informed consent.

(b) If a psychiatrist determines that an inmate should be treated with psychiatric medication, but the inmate does not consent, the inmate may be involuntarily treated with the medication. Treatment may be given on either a nonemergency basis as provided in subdivision (c), or on an emergency or interim basis as provided in subdivision (d).

(c) A county department of mental health, or other designated county department, may administer involuntary medication on a nonemergency basis only if all of the following conditions have been met:

(1) A psychiatrist or psychologist has determined that the inmate has a serious mental disorder.

(2) A psychiatrist or psychologist has determined that, as a result of that mental disorder, the inmate is gravely disabled and does not have the capacity to refuse treatment with psychiatric medications, or is a danger to self or others.

(3) A psychiatrist has prescribed one or more psychiatric medications for the treatment of the inmate's disorder, has considered the risks, benefits, and treatment alternatives to involuntary medication, and has determined that the treatment alternatives to involuntary medication are unlikely to meet the needs of the patient.

(4) The inmate has been advised of the risks and benefits of, and treatment alternatives to, the psychiatric medication and refuses, or is unable to consent to, the administration of the medication.

(5) The jail has made a documented attempt to locate an available bed for the inmate in a community-based treatment facility in lieu of seeking to administer involuntary medication. The jail shall transfer that inmate to such a facility only if the facility can provide care for the mental health needs, and the physical health needs, if any, of the inmate and upon the agreement of the facility. In enacting the act that added this paragraph, it is the intent of the Legislature to recognize the lack of community-based beds and the inability of many facilities to accept transfers from correctional facilities.

(6) The inmate is provided a hearing before a superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer, as specified in subdivision (c) of Section 5334 of the Welfare and Institutions Code.

(A) If the inmate is in custody awaiting trial, any hearing pursuant to this section shall be held before, and any requests for ex parte orders shall be submitted to, a judge in the superior court where the criminal case is pending.

(B) A superior court judge may consider whether involuntary medication would prejudice the inmate's defense.

(7) (A) The inmate is provided counsel at least 21 days prior to the hearing, unless emergency or interim medication is being administered pursuant to subdivision (d), in which case the inmate would receive expedited access to counsel.

(B) In the case of an inmate awaiting arraignment, the inmate is provided counsel within 48 hours of the filing of the notice of the hearing with the superior court, unless counsel has previously been appointed.

(C) The hearing shall be held not more than 30 days after the filing of the notice with the superior court, unless counsel for the inmate agrees to extend the date of the hearing.

(8) (A) The inmate and counsel are provided with written notice of the hearing at least 21 days prior to the hearing, unless emergency or interim medication is being administered pursuant to subdivision (d), in which case the inmate would receive an expedited hearing.

(B) The written notice shall do all of the following:

(i) Set forth the diagnosis, the factual basis for the diagnosis, the basis upon which psychiatric medication is recommended, the expected benefits of the medication, any potential side effects and risks to the inmate from the medication, and any alternatives to treatment with the medication.

(ii) Advise the inmate of the right to be present at the hearing, the right to be represented by counsel at all stages of the proceedings, the right to present evidence, and the right to cross-examine witnesses. Counsel for the inmate shall have access to all medical records and files of the inmate, but shall not have access to the confidential section of the inmate's central file which contains materials unrelated to medical treatment.

(iii) Inform the inmate of their right to appeal the determination to the superior court or the court of appeal as specified in subdivisions (e) and (f) of Section 5334 of the Welfare and Institutions Code, and their right to file a petition for writ of habeas corpus with respect to any decision of the county department of mental health, or other designated county department, to continue treatment with involuntary medication after the superior court judge, court-appointed commissioner or referee, or court-appointed hearing officer has authorized treatment with involuntary medication.

(9) (A) In the hearing described in paragraph (6), the superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer determines by clear and convincing evidence that the inmate has a mental illness or disorder, that as a result of that illness the inmate is gravely disabled and lacks the capacity to consent to or refuse treatment with psychiatric medications or is a danger to self or others if not medicated, that there is no less intrusive alternative to involuntary medication, and that the medication is in the inmate's best medical interest.

(B) The superior court judge, court-appointed commissioner or referee, or a court-appointed hearing officer shall not make a finding pursuant to subparagraph (A) of this paragraph that there is no less intrusive alternative to involuntary medication and that the medication is in the inmate's best medical interest, without information from the jail to indicate that neither of the conditions specified in paragraph (5) is present.

(C) If the court makes the findings in subparagraph (A), that administration shall occur in consultation with a psychiatrist who is not involved in the treatment of the inmate at the jail, if available.

(D) In the event of any statutory notice issues with either initial or renewal filings by the county department of mental health, or other designated county department, the superior court judge, court-appointed commissioner or referee, or court-appointed hearing officer shall hear arguments as to why the case should be heard, and shall consider factors such as the ability of the inmate's counsel to adequately prepare the case and to confer with the inmate, the continuity of care, and, if applicable, the need for protection of the inmate or institutional staff that would be compromised by a procedural default.

(10) The historical course of the inmate's mental disorder, as determined by available relevant information about the course of the inmate's mental disorder, shall be considered when it has direct bearing on the determination of whether the inmate is a danger to self or others, or is gravely disabled and incompetent to refuse medication as the result of a mental disorder.

(11) An inmate is entitled to file one motion for reconsideration following a determination that they may receive involuntary medication, and may seek a hearing to present new evidence, upon good cause shown. This paragraph does not prevent a court from reviewing, modifying, or terminating an involuntary medication order for an inmate awaiting trial, if there is a showing that the involuntary medication is interfering with the inmate's due process rights in the criminal proceeding.

(d) (1) (A) This section does not prohibit a physician from taking appropriate action in an emergency. An emergency exists when both of the following criteria are met:

(i) There is a sudden and marked change in an inmate's mental condition so that action is immediately necessary for the preservation of life or the prevention of serious bodily harm to the inmate or others.

(ii) It is impractical, due to the seriousness of the emergency, to first obtain informed consent.

(B) If psychiatric medication is administered during an emergency, the medication shall only be that which is required to treat the emergency condition and shall be administered for only so long as the emergency continues to exist.

(2) (A) If the clinicians of the county department of mental health, or other designated county department, identify a situation that jeopardizes the inmate's health or well-being as the result of a serious mental illness, and necessitates the continuation of medication beyond the initial 72 hours pending the full mental health hearing, the county department may seek to continue the medication by giving notice to the inmate and their counsel of its intention to seek an ex parte order to allow the continuance of medication pending the full hearing, and filing an ex parte order within the initial 72-hour period. Treatment of the inmate in a facility pursuant to Section 4011.6 shall not be required in order to continue medication under this subdivision unless the treatment is otherwise medically necessary.

(B) The notice shall be served upon the inmate and counsel at the same time the inmate is given the written notice that the involuntary medication proceedings are being initiated and is appointed counsel as provided in subdivision (c).

(C) The order may be issued ex parte upon a showing that, in the absence of the medication, the emergency conditions are likely to recur. The request for an ex parte order shall be supported by an affidavit from the psychiatrist or psychologist showing specific facts.

(D) The inmate and the inmate's appointed counsel shall have two business days to respond to the county department's ex parte request to continue interim medication, and may present facts supported by an affidavit in opposition to the department's request. A superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer shall review the ex parte request and shall have three business days to determine the merits of the department's request for an ex parte order.

(E) If an order is issued, the psychiatrist may continue the administration of the medication until the hearing described in paragraph (6) of subdivision (c) is held.

(3) If the county elects to seek an ex parte order pursuant to this subdivision, the county department of mental health, or other designated county department, shall file with the superior court, and serve on the inmate and their counsel, the written notice described in paragraph (8) of subdivision (c) within 72 hours of commencing medication pursuant to this subdivision, unless either of the following occurs:

(A) The inmate gives informed consent to continue the medication.

(B) A psychiatrist determines that the psychiatric medication is not necessary and administration of the medication is discontinued.

(4) If medication is being administered pursuant to this subdivision, the hearing described in paragraph (6) of subdivision (c) shall commence within 21 days of the filing and service of the notice, unless counsel for the inmate agrees to a different period of time.

(5) With the exception of the timeline provisions specified in paragraphs (3) and (4) for providing notice and commencement of the hearing in emergency or interim situations, the inmate shall be entitled to and be given the same due process protections as specified in subdivision (c). The county department of mental health, or other designated county department, shall prove the same elements supporting the involuntary administration of psychiatric medication and the superior court judge, court-appointed commissioner or referee, or court-appointed hearing officer shall be required to make the same findings described in subdivision (c).

(e) (1) (A) An order by the court authorizing involuntary medication of an inmate shall be valid for no more than one year after the date of determination.

(B) Notwithstanding subparagraph (A), in the case of an inmate who is awaiting arraignment, trial, or sentencing, the determination that an inmate may receive involuntary medication shall be valid for no more than 180 days. The court shall review the order at intervals of not more than 60 days to determine whether the grounds for the order remain. At each review, the psychiatrist shall file an affidavit with the court that ordered the involuntary medication affirming that the person who is the subject of the order continues to meet the criteria for involuntary medication. A copy of the affidavit shall be provided to the defendant and the defendant's attorney. In determining whether the criteria for involuntary medication still exist, the court shall consider the affidavit of the psychiatrist or psychiatrists and any supplemental information provided by

the defendant's attorney. The court may also require the testimony from the psychiatrist, if necessary. The court, at each review, may continue the order authorizing involuntary medication, vacate the order, or make any other appropriate order.

(2) Notwithstanding subparagraph (A) of paragraph (1), any determination of an inmate's incapacity to refuse treatment with antipsychotic medication made pursuant to this section shall remain in effect only until one of the following occurs, whichever occurs first:

(A) The duration of the inmate's confinement ends.

(B) A court determines that the inmate no longer meets the criteria of subdivision (c) or (d), or by any other order of the court.

(3) An inmate's period of confinement may not be extended in order to provide treatment to the inmate with antipsychotic medication pursuant to this section.

(f) This section does not prohibit the court, upon making a determination that an inmate awaiting arraignment, preliminary hearing, trial, sentencing, or a postconviction proceeding to revoke or modify supervision may receive involuntary medication pursuant to subdivision (c) or (d), and, upon ex parte request of the defendant or counsel, from suspending all proceedings in the criminal prosecution, until the court determines that the defendant's medication will not interfere with their ability to meaningfully participate in the criminal proceedings.

(g) If a determination has been made to involuntarily medicate an inmate pursuant to subdivision (c) or (d), the medication shall be discontinued one year after the date of that determination, unless the inmate gives informed consent to the administration of the medication, or unless a new determination is made pursuant to the procedures set forth in subdivision (h).

(h) To renew an existing order allowing involuntary medication, the county department of mental health, or other designated county department, shall file with the superior court, and shall serve on the inmate and their counsel, a written notice indicating the department's intent to renew the existing involuntary medication order.

(1) The request to renew the order shall be filed and served no later than 21 days prior to the expiration of the current order authorizing involuntary medication.

(2) The inmate shall be entitled to, and shall be given, the same due process protections as specified in subdivision (c).

(3) (A) Except as provided in subparagraph (B), renewal orders shall be valid for one year from the date of the hearing.

(B) In the case of an inmate awaiting arraignment, trial, or sentencing, the renewal order shall be valid for no more than 180 days. The court shall review the order at intervals of not more than 60 days to determine whether the grounds for the order remain. At each review, the psychiatrist shall file an affidavit with the court that ordered the involuntary medication affirming that the person who is the subject of the order continues to meet the criteria for involuntary medication. A copy of the affidavit shall be provided to the defendant and the defendant's attorney. In determining whether the criteria for involuntary medication still exist, the court shall consider the affidavit of the psychiatrist or psychiatrists and any supplemental information provided by the defendant's attorney. The court may also require the testimony from the psychiatrist, if necessary. The court, at each review, may continue the order authorizing involuntary medication, vacate the order, or make any other appropriate order.

(4) (A) An order renewing an existing order shall be granted based on clear and convincing evidence that the inmate has a serious mental disorder that requires treatment with psychiatric medication, and that, but for the medication, the inmate would revert to the behavior that was the basis for the prior order authorizing involuntary medication, coupled with evidence that the inmate lacks insight regarding their need for the medication, such that it is unlikely that the inmate would be able to manage their own medication and treatment regimen. No new acts need be alleged or proven.

(B) The superior court judge, court-appointed commissioner or referee, or a court-appointed hearing officer shall also make a finding that treatment of the inmate in a correctional setting continues to be necessary if neither of the criteria in paragraph (5) of subdivision (c) is present.

(5) If the county department of mental health, or other designated county department, wishes to add a basis to an existing order, it shall give the inmate and the inmate's counsel notice in advance of the hearing via a renewal notice or supplemental petition. Within the renewal notice or supplemental petition, as described in subdivision (h), the county department of mental health, or other designated county department, shall specify what additional basis is being alleged and what qualifying conduct within the past year supports that additional basis. The county department of mental health, or other designated county department, shall prove the additional basis and conduct by clear and convincing evidence at a hearing as specified in subdivision (c).

(6) The hearing on any petition to renew an order for involuntary medication shall be conducted prior to the expiration of the current order.

(i) In the event of a conflict between the provisions of this section and the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of the Government Code), this section shall control.

(j) As used in this section, "inmate" means a person confined in the county jail, including, but not limited to, a person sentenced to imprisonment in a county jail, a person housed in a county jail during or awaiting trial proceedings, and a person who has been booked into a county jail and is awaiting arraignment.

(k) This section does not apply to a person housed in a county jail solely on the basis of an immigration hold, except as it applies to medication provided on an emergency or interim basis as provided in subdivision (d).

(l) Each county that administers involuntary medication to an inmate awaiting arraignment, trial, or sentencing, shall file, by January 1, 2021, a written report with the Assembly Committees on Judiciary and Public Safety and the Senate Committee on Public Safety summarizing the following: the number of inmates who received involuntary medication while awaiting arraignment, trial, or sentencing between January 1, 2018, and July 1, 2020; the crime for which those inmates were arrested; the total time those inmates were detained while awaiting arraignment, trial, or sentencing; the duration of the administration of involuntary medication; the number of times, if any, that an existing order for the administration of involuntary medication was renewed; and the reason for termination of the administration of involuntary medication.

(m) This section shall remain in effect only until January 1, 2025, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends the date.

SEC. 12. Section 2603 of the Penal Code, as added by Section 3 of Chapter 347 of the Statutes of 2017, is amended to read:

2603. (a) Except as provided in subdivision (b), no person sentenced to imprisonment in a county jail shall be administered any psychiatric medication without prior informed consent.

(b) If a psychiatrist determines that an inmate should be treated with psychiatric medication, but the inmate does not consent, the inmate may be involuntarily treated with the medication. Treatment may be given on either a nonemergency basis as provided in subdivision (c), or on an emergency or interim basis as provided in subdivision (d).

(c) A county department of mental health, or other designated county department, may seek to initiate involuntary medication on a nonemergency basis only if all of the following conditions have been met:

(1) A psychiatrist or psychologist has determined that the inmate has a serious mental disorder.

(2) A psychiatrist or psychologist has determined that, as a result of that mental disorder, the inmate is gravely disabled and does not have the capacity to refuse treatment with psychiatric medications, or is a danger to self or others.

(3) A psychiatrist has prescribed one or more psychiatric medications for the treatment of the inmate's disorder, has considered the risks, benefits, and treatment alternatives to involuntary medication, and has determined that the treatment alternatives to involuntary medication are unlikely to meet the needs of the patient.

(4) The inmate has been advised of the risks and benefits of, and treatment alternatives to, the psychiatric medication, and refuses, or is unable to consent to, the administration of the medication.

(5) The inmate is provided a hearing before a superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer, as specified in subdivision (c) of Section 5334 of the Welfare and Institutions Code.

(6) The inmate is provided counsel at least 21 days prior to the hearing, unless emergency or interim medication is being administered pursuant to subdivision (d), in which case the inmate would receive expedited access to counsel. The hearing shall be held not more than 30 days after the filing of the notice with the superior court, unless counsel for the inmate agrees to extend the date of the hearing.

(7) The inmate and counsel are provided with written notice of the hearing at least 21 days prior to the hearing, unless emergency or interim medication is being administered pursuant to subdivision (d), in which case the inmate would receive an expedited hearing. The written notice shall do all of the following:

(A) Set forth the diagnosis, the factual basis for the diagnosis, the basis upon which psychiatric medication is recommended, the expected benefits of the medication, any potential side effects and risks to the inmate from the medication, and any alternatives to treatment with the medication.

(B) Advise the inmate of the right to be present at the hearing, the right to be represented by counsel at all stages of the proceedings, the right to present evidence, and the right to cross-examine witnesses. Counsel for the inmate shall have access to all medical records and files of the inmate, but shall not have access to the confidential section of the inmate's central file which contains materials unrelated to medical treatment.

(C) Inform the inmate of the right to appeal the determination to the superior court or the court of appeal as specified in subdivisions (e) and (f) of Section 5334 of the Welfare and Institutions Code, and of the right to file a petition for writ of habeas corpus with respect to any decision of the county department of mental health, or other designated county department, to continue treatment with involuntary medication after the superior court judge, court-appointed commissioner or referee, or court-appointed hearing officer has authorized treatment with involuntary medication.

(8) A superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer determines by clear and convincing evidence that the inmate has a mental illness or disorder, that as a result of that illness the inmate is gravely disabled and lacks the capacity to consent to or refuse treatment with psychiatric medications or is a danger to self or others if not medicated, that there is no less intrusive alternative to involuntary medication, and that the medication is in the inmate's best medical interest. In the event of any statutory notice issues with either initial or renewal filings by the county department of mental health, or other designated county department, the superior court judge, court-appointed commissioner or referee, or court-appointed hearing officer shall hear arguments as to why the case should be heard, and shall consider factors such as the ability of the inmate's counsel to adequately prepare the case and to confer with the inmate, the continuity of care, and, if applicable, the need for protection of the inmate or institutional staff that would be compromised by a procedural default.

(9) The historical course of the inmate's mental disorder, as determined by available relevant information about the course of the inmate's mental disorder, shall be considered when it has direct bearing on the determination of whether the inmate is a danger to self or others, or is gravely disabled and incompetent to refuse medication as the result of a mental disorder.

(10) An inmate is entitled to file one motion for reconsideration following a determination that they may receive involuntary medication, and may seek a hearing to present new evidence, upon good cause shown.

(d) Nothing in this section is intended to prohibit a physician from taking appropriate action in an emergency. An emergency exists when there is a sudden and marked change in an inmate's mental condition so that action is immediately necessary for the preservation of life or the prevention of serious bodily harm to the inmate or others, and it is impractical, due to the seriousness of the emergency, to first obtain informed consent. If psychiatric medication is administered during an emergency, the medication shall only be that which is required to treat the emergency condition and shall be administered for only so long as the emergency continues to exist. If the clinicians of the county department of mental health, or other designated county department, identify a situation that jeopardizes the inmate's health or well-being as the result of a serious mental illness, and necessitates the continuation of medication beyond the initial 72 hours pending the full mental health hearing, the county department may seek to continue the medication by giving notice to the inmate and their counsel of its intention to seek an ex parte order to allow the continuance of medication pending the full hearing. Treatment of the inmate in a facility pursuant to Section 4011.6 shall not be required in order to continue medication under this subdivision unless the treatment is otherwise medically necessary. The notice shall be served upon the inmate and counsel at the same time the inmate is given the written notice that the involuntary medication proceedings are being initiated and is appointed counsel as provided in subdivision (c). The order may be issued ex parte upon a showing that, in the absence of the medication, the emergency conditions are likely to recur. The request for an ex parte order shall be supported by an affidavit from the psychiatrist or psychologist showing specific facts. The inmate and the inmate's appointed counsel shall have two business days to respond to the county department's ex parte request to continue interim medication, and may present facts supported by an affidavit in opposition to the department's request. A superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer shall review the ex parte request and shall have three business days to determine the merits of the department's request for an ex parte order. If an order is issued, the psychiatrist may continue the administration of the medication until the hearing described in paragraph (5) of subdivision (c) is held.

(1) If the county elects to seek an ex parte order pursuant to this subdivision, the county department of mental health, or other designated county department, shall file with the superior court, and serve on the inmate and their counsel, the written notice described in paragraph (7) of subdivision (c) within 72 hours of commencing medication pursuant to this subdivision, unless either of the following occurs:

(A) The inmate gives informed consent to continue the medication.

(B) A psychiatrist determines that the psychiatric medication is not necessary and administration of the medication is discontinued.

(2) If medication is being administered pursuant to this subdivision, the hearing described in paragraph (5) of subdivision (c) shall commence within 21 days of the filing and service of the notice, unless counsel for the inmate agrees to a different period

of time.

(3) With the exception of the timeline provisions specified in paragraphs (1) and (2) for providing notice and commencement of the hearing in emergency or interim situations, the inmate shall be entitled to and be given the same due process protections as specified in subdivision (c). The county department of mental health, or other designated county department, shall prove the same elements supporting the involuntary administration of psychiatric medication, and the superior court judge, court-appointed commissioner or referee, or court-appointed hearing officer shall be required to make the same findings described in subdivision (c).

(e) The determination that an inmate may receive involuntary medication shall be valid for one year from the date of the determination, regardless of whether the inmate subsequently gives informed consent.

(f) If a determination has been made to involuntarily medicate an inmate pursuant to subdivision (c) or (d), the medication shall be discontinued one year after the date of that determination, unless the inmate gives informed consent to the administration of the medication, or unless a new determination is made pursuant to the procedures set forth in subdivision (g).

(g) To renew an existing order allowing involuntary medication, the county department of mental health, or other designated county department, shall file with the superior court, and shall serve on the inmate and their counsel, a written notice indicating the department's intent to renew the existing involuntary medication order.

(1) The request to renew the order shall be filed and served no later than 21 days prior to the expiration of the current order authorizing involuntary medication.

(2) The inmate shall be entitled to, and shall be given, the same due process protections as specified in subdivision (c).

(3) Renewal orders shall be valid for one year from the date of the hearing.

(4) An order renewing an existing order shall be granted based on clear and convincing evidence that the inmate has a serious mental disorder that requires treatment with psychiatric medication, and that, but for the medication, the inmate would revert to the behavior that was the basis for the prior order authorizing involuntary medication, coupled with evidence that the inmate lacks insight regarding their need for the medication, such that it is unlikely that the inmate would be able to manage their own medication and treatment regimen. No new acts need be alleged or proven.

(5) If the county department of mental health, or other designated county department, wishes to add a basis to an existing order, it shall give the inmate and the inmate's counsel notice in advance of the hearing via a renewal notice or supplemental petition. Within the renewal notice or supplemental petition, as described in subdivision (g), the county department of mental health, or other designated county department, shall specify what additional basis is being alleged and what qualifying conduct within the past year supports that additional basis. The county department of mental health, or other designated county department, shall prove the additional basis and conduct by clear and convincing evidence at a hearing as specified in subdivision (c).

(6) The hearing on any petition to renew an order for involuntary medication shall be conducted prior to the expiration of the current order.

(h) In the event of a conflict between the provisions of this section and the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code), this section shall control.

(i) This section shall become effective on January 1, 2025.

SEC. 13. Section 2905 of the Penal Code is amended to read:

2905. (a) For purposes of this section, a "youth offender" is an individual committed to the Department of Corrections and Rehabilitation who is under 22 years of age.

(b) (1) The department shall, at reception, automatically grant a youth offender a lower security level than the level that corresponds with that individual's classification score or placement in a facility that permits increased access to programs, except for a youth offender who has committed a serious in-custody offense, who shall be reviewed by a classification committee. The youth offender classification committee shall consist of the staff required by department regulations at any classification committee; however, at least one member shall be a department staff member specially trained in conducting the reviews. Training shall include, but not be limited to, adolescent and young adult development and evidence-based interviewing processes employing positive and motivational techniques.

(2) The purpose of the youth offender review is to meet with the youth offender and assess the readiness of a youth offender for a lower security level or placement permitting increased access to programs and to encourage the youth offender to commit to positive change and self-improvement.

(c) A youth offender shall be considered for placement at a lower security level than the level that corresponds with their classification score or placement in a facility that permits increased access to programs. When a classification committee is appropriate, it shall review factors including, but not limited to, the following:

- (1) Recent in-custody behavior while housed in juvenile or adult facilities.
- (2) Demonstrated efforts of progress toward self-improvement in juvenile or adult facilities.
- (3) Family or community ties supportive of rehabilitation.
- (4) Evidence of commitment to working toward self-improvement with a goal of being a law-abiding member of society upon release.

(d) For a youth offender requiring review by classification committee, if the department determines, based on the review described in subdivisions (b) and (c), that the youth offender may be appropriately placed at a lower security level, the department shall transfer the youth offender to a lower security level facility. If the youth offender is denied a lower security level, then they shall be considered for placement in a facility that permits increased access to programs. If the department determines a youth offender may appropriately be placed in a facility permitting increased access to programs, the youth offender shall be transferred to such a facility.

(e) For a youth offender requiring review by classification committee, if the youth offender demonstrates they are a safety risk to inmates, staff, or the public, and do not otherwise demonstrate a commitment to rehabilitation, the youth offender shall be reclassified and placed at a security level that is consistent with department regulations and procedures.

(f) A youth offender who at their initial youth offender classification committee review is denied a lower security level than the level that corresponds with their placement score or did not qualify for a placement permitting increased access to programs due to previous incarceration history and was placed in the highest security level shall nevertheless be eligible to have their placement reconsidered pursuant to subdivisions (b) to (d), inclusive, at their annual review until reaching 25 years of age. If at an annual review it is determined that the youth offender has had no serious rule violations for one year, the department shall consider whether the youth would benefit from placement in a lower level facility or placement permitting increased access to programs.

(g) The department shall review and, as necessary, revise existing regulations and adopt new regulations regarding classification determinations made pursuant to this section, and provide for training for staff.

(h) This section shall become operative on July 1, 2015.

SEC. 14. Section 3453 of the Penal Code is amended to read:

3453. Postrelease community supervision shall include the following conditions:

- (a) The person shall be informed of the conditions of release.
- (b) The person shall obey all laws.
- (c) The person shall report to the supervising county agency within two working days of release from custody.
- (d) The person shall follow the directives and instructions of the supervising county agency.
- (e) The person shall report to the supervising county agency as directed by that agency.
- (f) The person, and their residence and possessions, shall be subject to search at any time of the day or night, with or without a warrant, by an agent of the supervising county agency or by a peace officer.
- (g) The person shall waive extradition if found outside the state.
- (h) (1) The person shall inform the supervising county agency of the person's place of residence and shall notify the supervising county agency of any change in residence, or the establishment of a new residence if the person was previously transient, within five working days of the change.

(2) For purposes of this section, "residence" means one or more locations at which a person regularly resides, regardless of the number of days or nights spent there, such as a shelter or structure that can be located by a street address, including, but not limited to, a house, apartment building, motel, hotel, homeless shelter, and recreational or other vehicle. If the person has no residence, they shall inform the supervising county agency that they are transient.
- (i) (1) The person shall inform the supervising county agency of the person's place of employment, education, or training. The person shall inform the supervising agency of any pending or anticipated change in employment, education, or training.

(2) If the person enters into new employment, they shall inform the supervising county agency of the new employment within three business days of that entry.

(j) The person shall immediately inform the supervising county agency if they are arrested or receive a citation.

(k) The person shall obtain the permission of the supervising county agency to travel more than 50 miles from the person's place of residence.

(l) The person shall obtain a travel pass from the supervising county agency before they may leave the county or state for more than two days.

(m) The person shall not be in the presence of a firearm or ammunition, or any item that appears to be a firearm or ammunition.

(n) The person shall not possess, use, or have access to any weapon listed in Section 16140, subdivision (c) of Section 16170, Section 16220, 16260, 16320, 16330, or 16340, subdivision (b) of Section 16460, Section 16470, subdivision (f) of Section 16520, or Section 16570, 16740, 16760, 16830, 16920, 16930, 16940, 17090, 17125, 17160, 17170, 17180, 17190, 17200, 17270, 17280, 17330, 17350, 17360, 17700, 17705, 17710, 17715, 17720, 17725, 17730, 17735, 17740, 17745, 19100, 19200, 19205, 20200, 20310, 20410, 20510, 20610, 20611, 20710, 20910, 21110, 21310, 21810, 22210, 22215, 22410, 24310, 24410, 24510, 24610, 24680, 24710, 30210, 30215, 31500, 32310, 32400, 32405, 32410, 32415, 32420, 32425, 32430, 32435, 32440, 32445, 32450, 32900, 33215, 33220, 33225, or 33600.

(o) (1) Except as provided in paragraph (2) and subdivision (p), the person shall not possess a knife with a blade longer than two inches.

(2) The person may possess a kitchen knife with a blade longer than two inches if the knife is used and kept only in the kitchen of the person's residence.

(p) The person may use a knife with a blade longer than two inches, if the use is required for that person's employment, the use has been approved in a document issued by the supervising county agency, and the person possesses the document of approval at all times and makes it available for inspection.

(q) The person shall waive any right to a court hearing prior to the imposition of a period of "flash incarceration" in a city or county jail of not more than 10 consecutive days for any violation of their postrelease supervision conditions.

(r) The person shall participate in rehabilitation programming as recommended by the supervising county agency.

(s) The person shall be subject to arrest with or without a warrant by a peace officer employed by the supervising county agency or, at the direction of the supervising county agency, by any peace officer when there is probable cause to believe the person has violated the terms and conditions of release.

(t) The person shall pay court-ordered restitution and restitution fines in the same manner as a person placed on probation.

SEC. 15. Section 5076.1 of the Penal Code is amended to read:

5076.1. (a) The board shall meet at each of the state prisons and facilities under the jurisdiction of the Division of Adult Institutions. Meetings shall be held at whatever times may be necessary for a full and complete study of the cases of all inmates whose matters are considered. Other times and places of meeting may also be designated by the board. Each commissioner of the board shall receive actual necessary traveling expenses incurred in the performance of their official duties. Where the board performs its functions by meeting en banc in either public or executive sessions to decide matters of general policy, a majority of commissioners holding office on the date the matter is heard by the board shall be present, and no action shall be valid unless it is concurred in by a majority vote of those present.

(b) The board may use deputy commissioners to whom it may assign appropriate duties, including hearing cases and making decisions. Those decisions shall be made in accordance with policies approved by a majority of the commissioners holding office.

(c) The board may meet and transact business in panels. Each panel shall consist of two or more persons, subject to subdivision (d) of Section 3041. No action shall be valid unless concurred in by a majority vote of the persons present. In the event of a tie vote, the matter shall be referred for en banc review by the board. The commissioners conducting the review shall consider the full record that was before the panel that resulted in the tie vote. The review shall be limited to the full record that was before the panel that resulted in the tie vote. New evidence or comment shall not be considered in the en banc proceeding. A commissioner who was involved in the tie vote shall be recused from consideration of the matter in the en banc review.

(d) Consideration of parole release for persons sentenced to life imprisonment pursuant to subdivision (b) of Section 1168 shall be heard by a panel of two or more commissioners or deputy commissioners, of which only one may be a deputy commissioner.

A recommendation for recall of a sentence under subdivision (d) of Section 1170 shall be made by a panel, a majority of whose commissioners are commissioners of the Board of Parole Hearings.

SEC. 16. Section 5076.2 of the Penal Code is amended to read:

5076.2. (a) Any rules and regulations, including any resolutions and policy statements, promulgated by the Board of Parole Hearings, shall be promulgated and filed pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The Board of Parole Hearings shall maintain, publish and make available to the general public, a compendium of its rules and regulations, including any resolutions and policy statements, promulgated pursuant to this section.

(c) The exception specified in this subdivision to the procedures specified in this section shall apply to the Board of Parole Hearings. The executive officer may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State. However, no less than 20 days prior to that effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

SEC. 17. Section 5076.3 of the Penal Code is amended to read:

5076.3. The Executive Officer of the Board of Parole Hearings shall have the authority of a head of a department set forth in subdivision (e) of Section 11181 of the Government Code to issue subpoenas as provided in Article 2 (commencing with Section 11180) of Chapter 2 of Division 3 of Title 2 of the Government Code. The board shall adopt regulations on the policies and guidelines for the issuance of subpoenas.

SEC. 18. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(A) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of a person, such as name, date of birth, physical description, fingerprints, photographs, dates of arrests, arresting agencies and booking numbers, charges, dispositions, sentencing information, and similar data about the person.

(B) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and (b) of Section 830.5.

(3) District attorneys of the state.

(4) Prosecuting city attorneys or city prosecutors of a city within the state.

(5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.

(6) Probation officers of the state.

(7) Parole officers of the state.

(8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

- (9) A public defender or attorney of record when representing a person in a criminal case or a juvenile delinquency proceeding, including all appeals and postconviction motions, or a parole, mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170, or postrelease community supervision revocation or revocation extension proceeding, if the information is requested in the course of representation.
- (10) An agency, officer, or official of the state if the state summary criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may perform state and federal criminal history information checks as provided for in subdivision (u). The Department of Justice shall provide a state or federal response to the agency, officer, or official pursuant to subdivision (p).
- (11) A city, county, city and county, or district, or an officer or official thereof, if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the state summary criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city, county, city and county, district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.
- (12) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120).
- (13) A person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.
- (14) Health officers of a city, county, city and county, or district when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.
- (15) A managing or supervising correctional officer of a county jail or other county correctional facility.
- (16) A humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of humane officers.
- (17) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing state summary criminal history information, the agency shall delete or purge from the file and destroy documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parent's having failed to provide support for minor children, consistent with the requirements of Section 17531 of the Family Code.
- (18) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for a purpose other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.
- (19) The court of a tribe, or court of a consortium of tribes, that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code. This information may be used only for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. Article 6 (commencing with Section 11140) shall apply to officers, members, and employees of a tribal court receiving state summary criminal history information pursuant to this section.
- (20) Child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code and to whom the state has delegated duties under paragraph (2) of subdivision (a) of Section 272 of the Welfare and Institutions Code. The purposes for use of the information shall be for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with

Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.

(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.

(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.

(24) A humane officer pursuant to Section 14502 of the Corporations Code for the purposes of performing the officer's duties.

(25) A public agency described in subdivision (b) of Section 15975 of the Government Code, for the purpose of oversight and enforcement policies with respect to its contracted providers.

(26) (A) A state entity, or its designee, that receives federal tax information. A state entity or its designee that is authorized by this paragraph to receive state summary criminal history information also may transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation for the purpose of the state entity or its designee obtaining federal level criminal offender record information from the Department of Justice. This information shall be used only for the purposes set forth in Section 1044 of the Government Code.

(B) For purposes of this paragraph, "federal tax information," "state entity" and "designee" are as defined in paragraphs (1), (2), and (3), respectively, of subdivision (f) of Section 1044 of the Government Code.

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) A public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, the Attorney General shall furnish a copy of the data to the person to whom the data relates.

(2) A peace officer of the state other than those included in subdivision (b).

(3) An illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.

(4) A peace officer of another country.

(5) Public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.

(6) A person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(7) The courts of the United States, other states, or territories or possessions of the United States.

(8) Peace officers of the United States, other states, or territories or possessions of the United States.

(9) An individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or a foreign nation.

(10) (A) (i) A public utility, as defined in Section 216 of the Public Utilities Code, or a cable corporation as defined in subparagraph (B), if receipt of criminal history information is needed in order to assist in employing current or prospective employees, contract employees, or subcontract employees who, in the course of their employment, may be seeking entrance to private residences or adjacent grounds. The information provided shall be limited to the record of convictions and arrests for which the person is released on bail or on their own recognizance pending trial.

(ii) If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

(iii) State summary criminal history information is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on their own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

(iv) A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. A public utility's or cable corporation's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

(v) This section shall not be construed as imposing a duty upon public utilities or cable corporations to request state summary criminal history information on current or prospective employees.

(B) For purposes of this paragraph, "cable corporation" means a corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.

(C) Requests for federal level criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. Federal level criminal history information received or compiled by the Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.

(11) A campus of the California State University or the University of California, or a four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to a special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(12) A foreign government, if requested by the individual who is the subject of the record requested, if needed in conjunction with the individual's application to adopt a minor child who is a citizen of that foreign nation. Requests for information pursuant to this paragraph shall be in accordance with the process described in Sections 11122 to 11124, inclusive. The response shall be provided to the foreign government or its designee and to the individual who requested the information.

(13) To the Governor, upon the Governor's request to the Attorney General in conjunction with the Governor's recommendation to the Director of the Selective Service System of applicants for appointment to the state's Selective Service System local boards.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, a person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and 26190, and former Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or a state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting state summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

(k) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Every arrest or detention, except for an arrest or detention resulting in an exoneration, provided, however, that where the records of the Department of Justice do not contain a disposition for the arrest, the Department of Justice first makes a genuine effort to determine the disposition of the arrest.

(D) Every successful diversion.

(E) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(F) Sex offender registration status of the applicant.

(G) Sentencing information, if present in the department's records at the time of the response.

(l) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section 13101, and the information is to be used for criminal justice employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition or which did not result in a conviction, provided that the Department of Justice first makes a genuine effort to determine the disposition of the arrest. However, information concerning an arrest shall not be disclosed if the records of the Department of Justice indicate or if the genuine effort reveals that the subject was exonerated, successfully completed a diversion or deferred entry of judgment program, or the arrest was deemed a detention, or the subject was granted relief pursuant to Section 851.91.

(D) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(E) Sex offender registration status of the applicant.

(F) Sentencing information, if present in the department's records at the time of the response.

(m) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09,

1569.17, or 1596.871 of the Health and Safety Code, or a statute that incorporates the criteria of any of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction of an offense rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.49.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Every arrest for an offense for which the State Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.

(D) Sex offender registration status of the applicant.

(E) Sentencing information, if present in the department's records at the time of the response.

(3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, the Department of Justice shall not disseminate information about an arrest subsequently deemed a detention or an arrest that resulted in the successful completion of a diversion program, exoneration, or a grant of relief pursuant to Section 851.91.

(n) (1) This subdivision shall apply whenever state or federal summary criminal history information, to be used for employment, licensing, or certification purposes, is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual pursuant to any of the following:

(A) Paragraph (10) of subdivision (c), when the information is to be used by a cable corporation.

(B) Section 11105.3 or 11105.4.

(C) Section 15660 of the Welfare and Institutions Code.

(D) A statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this subdivision, by reference.

(2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction, except a conviction for which relief has been granted pursuant to Section 1203.49, rendered against the applicant for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.

(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Sex offender registration status of the applicant.

(D) Sentencing information, if present in the department's records at the time of the response.

(o) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 379 or 550 of the Financial Code, or a statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of an offense specified in Section 550 of the Financial Code, except a conviction for which relief has been granted pursuant to Section 1203.49.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 550 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Sentencing information, if present in the department's records at the time of the response.

(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or a statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or 1203.49. The Commission on Teacher Credentialing shall receive every conviction rendered against an applicant, retroactive to January 1, 2020, regardless of relief granted pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or 1203.49.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Sex offender registration status of the applicant.

(D) Sentencing information, if present in the department's records at the time of the response.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (l), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the Department of Justice for subsequent notification pursuant to Section 11105.2.

(r) This section does not require the Department of Justice to cease compliance with any other statutory notification requirements.

(s) The provisions of Section 50.12 of Title 28 of the Code of Federal Regulations are to be followed in processing federal criminal history information.

(t) Whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual defined in subdivisions (k) to (p), inclusive, and the information is to be used for employment, licensing, or certification purposes, the authorized agency, organization, or individual shall expeditiously furnish a copy of the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision. When furnished other than in person, the copy shall be delivered to the last contact information provided by the applicant.

(u) (1) If a fingerprint-based criminal history information check is required pursuant to any statute, that check shall be requested from the Department of Justice and shall be applicable to the person identified in the referencing statute. The agency or entity identified in the statute shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of the types of applicants identified in the referencing statute, for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of the state or federal arrests for which the Department of Justice establishes that the person is free on bail or on their own recognizance pending trial or appeal.

(2) If requested, the Department of Justice shall transmit fingerprint images and related information received pursuant to this section to the Federal Bureau of Investigation for the purpose of obtaining a federal criminal history information check. The Department of Justice shall review the information returned from the Federal Bureau of Investigation, and compile and disseminate a response or a fitness determination, as appropriate, to the agency or entity identified in the referencing statute.

(3) The Department of Justice shall provide a state- or federal-level response or a fitness determination, as appropriate, to the agency or entity identified in the referencing statute, pursuant to the identified subdivision.

(4) The agency or entity identified in the referencing statute shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2, for persons described in the referencing statute.

(5) The Department of Justice shall charge a fee sufficient to cover the reasonable cost of processing the request described in this subdivision.

SEC. 19. Section 13600 of the Penal Code is amended to read:

13600. (a) (1) The Legislature finds and declares that peace officers of the state correctional system, including youth and adult correctional facilities, fulfill responsibilities that require creation and application of sound selection criteria for applicants and standards for their training prior to assuming their duties. For the purposes of this section, correctional peace officers are peace officers as defined in Section 830.5 and employed or designated by the Department of Corrections and Rehabilitation.

(2) The Legislature further finds that sound applicant selection and training are essential to public safety and in carrying out the missions of the Department of Corrections and Rehabilitation in the custody and care of the state's offender population. The greater degree of professionalism which will result from sound screening criteria and a significant training curriculum will greatly aid the department in maintaining smooth, efficient, and safe operations and effective programs.

(b) There is within the Department of Corrections and Rehabilitation a Commission on Correctional Peace Officer Standards and Training, hereafter referred to, for purposes of this title, as the CPOST.

(c) (1) The executive board of the CPOST shall be composed of six voting members.

(A) Three members from, appointed by, and representing the management of, the Department of Corrections and Rehabilitation, one of whom shall represent the Division of Juvenile Justice until June 30, 2023, and the Division of Adult Parole Operations after June 30, 2023, or the Division of Rehabilitative Programs.

(B) Three members from, and appointed by the Governor upon recommendation by, and representing the membership of, the California Correctional Peace Officers' Association. Two members shall be rank-and-file persons from State Bargaining Unit 6 and one member shall be supervisory.

(C) Appointments shall be for four years.

(D) Promotion of a member of the CPOST shall invalidate the appointment of that member and shall require the recommendation and appointment of a new member if the member was appointed from rank and file or from supervisory personnel and promoted out of their respective rank and file or supervisory position during their term on the CPOST.

(2) Each appointing authority shall appoint one alternate member for each regular member who it appoints pursuant to paragraph (1). Every alternate member shall possess the same qualifications as a regular member and shall substitute for, and vote in place of, a regular member who was appointed by the same appointing authority whenever a regular member is absent.

(d) The rules for voting on the executive board of the CPOST shall be as follows:

(1) Decisions shall be made by a majority vote.

(2) Proxy voting shall not be permitted.

(3) Tentative approval of a decision by the CPOST may be taken by a telephone vote. The CPOST members' decision shall be documented in writing and submitted to the CPOST for confirmation at the next scheduled CPOST meeting so as to become a part of the permanent record.

(e) The executive board of the CPOST shall adopt rules as it deems necessary for efficient operations, including, but not limited to, the appointment of advisory members for forming whatever committees it deems necessary to conduct its business. These rules shall conform to the State Personnel Board's rules and regulations, the Department of Human Resources' rules and regulations, and the provisions of the State Bargaining Unit 6 memorandum of understanding.

(f) The executive board shall seek advice from national experts, including university and college institutions and correctional associations, on issues pertaining to adult corrections, juvenile justice, and the training of the Department of Corrections and Rehabilitation staff that are relevant to its mission. To this end, the executive board shall seek information from experts with the most specific knowledge concerning the subject matter.

(g) This section shall be operative on July 1, 2015.

SEC. 20. Section 14201 of the Penal Code is amended to read:

14201. The Attorney General shall employ within the Department Justice, upon appropriation of funds by the Legislature, crime analysts with expertise in child abuse, missing persons, child abductions, and sexual assaults, who shall electronically share their

data, analysis, and findings on violent crime cases with each other, and to electronically provide law enforcement agencies with information to assist in the identification, tracking, and apprehension of violent offenders.

SEC. 21. Section 14202 of the Penal Code is amended to read:

14202. The Attorney General shall establish and maintain, upon appropriation of funds by the Legislature, the California Sex and Arson Registry to track and monitor offenders and their activities. The system shall provide local law enforcement agencies with investigative leads to assist in the resolution of violent crimes.

SEC. 22. Section 16590 of the Penal Code is amended to read:

16590. As used in this part, "generally prohibited weapon" means any of the following:

- (a) An air gauge knife, as prohibited by Section 20310.
- (b) Ammunition that contains or consists of a flechette dart, as prohibited by Section 30210.
- (c) A ballistic knife, as prohibited by Section 21110.
- (d) A belt buckle knife, as prohibited by Section 20410.
- (e) A bullet containing or carrying an explosive agent, as prohibited by Section 30210.
- (f) A camouflaging firearm container, as prohibited by Section 24310.
- (g) A cane gun, as prohibited by Section 24410.
- (h) A cane sword, as prohibited by Section 20510.
- (i) A concealed dirk or dagger, as prohibited by Section 21310.
- (j) A concealed explosive substance, other than fixed ammunition, as prohibited by Section 19100.
- (k) A firearm that is not immediately recognizable as a firearm, as prohibited by Section 24510.
- (l) A large-capacity magazine, as prohibited by Section 32310.
- (m) A leaded cane or an instrument or weapon of the kind commonly known as a billy, blackjack, sandbag, sandclub, sap, or slungshot, as prohibited by Section 22210.
- (n) A lipstick case knife, as prohibited by Section 20610.
- (o) Metal knuckles, as prohibited by Section 21810.
- (p) A metal military practice handgrenade or a metal replica handgrenade, as prohibited by Section 19200.
- (q) A multiburst trigger activator, as prohibited by Section 32900.
- (r) A shobi-zue, as prohibited by Section 20710.
- (s) A short-barreled rifle or short-barreled shotgun, as prohibited by Section 33215.
- (t) A shuriken, as prohibited by Section 22410.
- (u) An unconventional pistol, as prohibited by Section 31500.
- (v) An undetectable firearm, as prohibited by Section 24610.
- (w) A wallet gun, as prohibited by Section 24710.
- (x) A writing pen knife, as prohibited by Section 20910.
- (y) A zip gun, as prohibited by Section 33600.

SEC. 23. Section 18010 of the Penal Code is amended to read:

18010. (a) The Attorney General, a district attorney, or a city attorney may bring an action to enjoin the manufacture of, importation of, keeping for sale of, offering or exposing for sale, giving, lending, or possession of, any item that constitutes a

nuisance under any of the following provisions:

- (1) Section 19290, relating to metal handgrenades.
- (2) Section 20390, relating to an air gauge knife.
- (3) Section 20490, relating to a belt buckle knife.
- (4) Section 20590, relating to a cane sword.
- (5) Section 20690, relating to a lipstick case knife.
- (6) Section 20790, relating to a shobi-zue.
- (7) Section 20990, relating to a writing pen knife.
- (8) Section 21190, relating to a ballistic knife.
- (9) Section 21890, relating to metal knuckles.
- (10) Section 22290, relating to a leaded cane or an instrument or weapon of the kind commonly known as a billy, blackjack, sandbag, sandclub, sap, or slungshot.
- (11) Section 22490, relating to a shuriken.
- (12) Section 24390, relating to a camouflaging firearm container.
- (13) Section 24490, relating to a cane gun.
- (14) Section 24590, relating to a firearm not immediately recognizable as a firearm.
- (15) Section 24690, relating to an undetectable firearm.
- (16) Section 24790, relating to a wallet gun.
- (17) Section 30290, relating to flechette dart ammunition and to a bullet with an explosive agent.
- (18) Section 31590, relating to an unconventional pistol.
- (19) Section 32390, relating to a large-capacity magazine.
- (20) Section 32990, relating to a multiburst trigger activator.
- (21) Section 33290, relating to a short-barreled rifle or a short-barreled shotgun.
- (22) Section 33690, relating to a zip gun.

(b) The weapons described in subdivision (a) shall be subject to confiscation and summary destruction whenever found within the state.

(c) The weapons described in subdivision (a) shall be destroyed in the same manner described in Section 18005, except that upon the certification of a judge or of the district attorney that the ends of justice will be served thereby, the weapon shall be preserved until the necessity for its use ceases.

(d) (1) Commencing July 1, 2022, the Attorney General, a district attorney, or a city attorney may bring an action to enjoin the importation into the state or sale of any firearm precursor part that is imported into this state or sold within this state in violation of Article 1 (commencing with Section 30400), Article 2 (commencing with Section 30442), Article 3 (commencing with Section 30470), and Article 4 (commencing with Section 30485) of Chapter 1.5 of Division 10 of Title 4.

(2) Commencing July 1, 2022, firearm precursor parts that are imported in this state or sold within this state in violation of Article 1 (commencing with Section 30400), Article 2 (commencing with Section 30442), Article 3 (commencing with Section 30470), and Article 4 (commencing with Section 30485) of Chapter 1.5 of Division 10 of Title 4 are a nuisance and are subject to confiscation and destruction pursuant to Section 18005.

SEC. 24. Section 22010 of the Penal Code is repealed.

SEC. 25. Section 22015 of the Penal Code is repealed.

SEC. 26. Section 22090 of the Penal Code is repealed.

SEC. 27. Section 22296 is added to the Penal Code, to read:

22296. As used in this part, a “billy,” “blackjack,” or “slungshot” does not include a nunchaku.

SEC. 28. 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.

SEC. 29. (a) Any section of any act enacted by the Legislature during the 2021 calendar year that takes effect on or before January 1, 2022, 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.

(b) This section does not apply to the repeal of Section 597f of the Penal Code.