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SB-883 Public Safety Omnibus. (2023-2024)

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Senate Bill No. 883

CHAPTER 311

An act to amend Section 15403 of, and to amend and renumber Section 7599 of, the Government Code, to amend Sections 192, 457.1, 679.027, 745, 1004, 1203.4b, 1370, 3003, 3040, 3042, 3053, 3053.5, 3055, 3058.6, 3058.65, 3058.9, 3066, 4019, 6141, 29805, and 30400 of the Penal Code, to amend Section 12801.9 of the Vehicle Code, and to amend Sections 628.2, 727.13, and 4336 of the Welfare and Institutions Code, relating to public safety.

[Approved by Governor October 04, 2023. Filed with Secretary of State October 04, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 883, Committee on Public Safety. Public Safety Omnibus.

(1) Existing law requires the State Public Defender to undertake a study to assess appropriate workloads for public defenders and indigent defense attorneys and submit a report with their findings and recommendations to the Legislature no later than January 1, 2024.

This bill would instead make that report due January 1, 2025.

(2) Existing law prohibits the crime of vehicular manslaughter, as defined. Existing law defines "gross negligence" for purposes of these provisions to include an exhibition of speed or participation in a sideshow, as defined.

This bill would remove exhibition of speed from this definition and add engaging in a motor vehicle speed contest, as defined.

By changing the definition of a crime, this bill would impose a state-mandated local program.

(3) Existing law requires law enforcement agencies to provide victims with specified information about victim's rights and resources.

This bill would fix an erroneous cross-reference in these provisions.

(4) Existing law prohibits the state from seeking a criminal conviction or sentence on the basis of race, ethnicity, or national origin, as specified.

This bill would fix an erroneous cross-reference in these provisions.

(5) Existing law authorizes a defendant to demur on the accusatory pleading at any time prior to the entry of a plea, when, among other things, it appears on the face of the pleading that the facts stated do not constitute a public offense or the pleading contains matter which, if true, would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution.

This bill would additionally authorize a defendant to demur if the statutory provision alleged in the accusatory pleading is constitutionally invalid.

(6) Under existing law, an incarcerated person who successfully participates as an incarcerated hand crew member in the California Conservation Camp program or in a county incarcerated hand crew, or participates at a Department of Corrections and Rehabilitation institutional firehouse is, upon release, eligible for record expungement, as specified.

This bill would specify that participation in an institutional firehouse must also be successful, as specified, to be qualifying. The bill would make other nonsubstantive clarifying changes to this provision.

(7) Existing law prohibits a person from being tried for a criminal offense while they are mentally incompetent. Existing law prescribes the procedure for a person found to be mentally incompetent to be restored to competence.

This bill would correct erroneous cross-references in these provisions and make other technical corrections.

(8) Existing law establishes the Board of Parole Hearings and authorizes the board to conduct parole consideration hearings, parole rescission hearings, and parole progress hearings for adults, among other responsibilities.

Existing law generally requires that an inmate released on parole or postrelease community supervision be returned to the county of last legal residence. Existing law authorizes an inmate to be returned to another county or city if it would be in the best interests of the public. Existing law requires the paroling authority, in making that decision, to consider specified factors, including, among others, the need to protect the life or safety of a victim, and the verified existence of a work offer or educational or vocational training program.

Existing law requires the Department of Corrections and Rehabilitation, when releasing prisoners on parole who have been convicted of a violent felony, as defined, or certain other felonies, as specified, to notify the law enforcement agency and the district attorney having jurisdiction over the community in which the person was convicted and also the law enforcement agency and district attorney having jurisdiction over the community in which the person is scheduled to be released. Existing law requires the department to provide notice to specified persons when a person convicted of specified sex offenses or acts of domestic violence are scheduled to be released.

This bill would amend these provisions to conform with current parole processes by removing references to the Board of Parole Hearings within these provisions. The bill would also remove outdated references to the Board of Prison Terms and make other technical, nonsubstantive changes to various provisions.

(9) Existing law establishes the California Rehabilitation Oversight Board to regularly examine the various mental health, substance abuse, educational, and employment programs for incarcerated persons and parolees operated by the Department of Corrections and Rehabilitation. Existing law requires the board to send a report to the Governor and the Legislature annually, on September 15, on, among other things, findings on the effectiveness of treatment efforts, rehabilitation needs of incarcerated persons, and gaps in rehabilitation services in the department.

This bill would require that report to be sent annually on October 15 instead.

(10) Existing law prohibits a person convicted of specified misdemeanors within the previous 10 years from possessing a firearm, as specified.

This bill would remove an erroneous cross-reference to a felony offense in that provision.

(11) Existing law prohibits the purchase or sale of a firearm precursor part, as specified.

This bill would make a technical, nonsubstantive change to those provisions.

(12) Existing law authorizes the Department of Motor Vehicles to issue a driver's license to a person who is unable to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law, as specified.

This bill would correct an erroneous cross-reference in those provisions.

(13) Existing law authorizes the use of electronic monitoring in criminal court under a home detention program for inmates held in a county jail or other correctional facility or granted probation, or inmates participating in a work furlough program, under certain conditions, in lieu of confinement. Existing law, if electronic monitoring is imposed for a period of greater than 30 days, requires the court to hold a hearing every 30 days to ensure that the minor does not remain on electronic monitoring for an unreasonable length of time, as specified.

This bill would require that hearing to occur at least once every 30 days.

(14) Existing law prescribes the procedure for the voluntary admission into a psychiatric residential treatment facility for a minor or nonminor dependent ward of the court.

This bill would make a nonsubstantive technical correction to those provisions.

(15) Existing law requires each county that has received funds from the Mental Health Services Fund to submit an annual report detailing the use of those funds to the State Department of State Hospitals, as specified.

This bill would instead require each county that has received funds from the Mental Health Diversion Fund to submit an annual report detailing the use of those funds to the State Department of State Hospitals, as specified.

(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.

(17) This bill would provide that any act enacted by the Legislature during the 2023 calendar year, as specified, 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 the act is enacted before, or subsequent to, the enactment of this act.

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

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

SECTION 1. Section 7599 of the Government Code, as added by Section 1 of Chapter 861 of the Statutes of 2014, is amended and renumbered to read:

7598.5. (a) For the purposes of this section, the following definitions shall apply:

(1) "Electronically stored information" means data that is created, altered, communicated, and stored in digital form.

(2) "Metadata" means data bearing the record of and not the content of communication, including, but not limited to, the time, date, location, duration, origin, or subject of the communication, and the identity of the person, persons, group, or entity sending or receiving the message.

(b) The state shall not provide material support, participation, or assistance in response to a request from a federal agency or an employee of a federal agency to collect the electronically stored information or metadata of any person if the state has actual knowledge that the request constitutes an illegal or unconstitutional collection of electronically stored information or metadata.

SEC. 2. Section 15403 of the Government Code is amended to read:

15403. (a) Subject to an appropriation of funds by the Legislature in the annual Budget Act or other measure made for purposes of this section, the State Public Defender, in consultation with the California Public Defenders Association and other subject matter experts, shall undertake a study to assess appropriate workloads for public defenders and indigent defense attorneys and shall submit a report with their findings and recommendations to the Legislature no later than January 1, 2025.

(b) (1) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2029.

SEC. 3. Section 192 of the Penal Code is amended to read:

192. Manslaughter is the unlawful killing of a human being without malice. It is of three kinds:

(a) Voluntary—upon a sudden quarrel or heat of passion.

(b) Involuntary—in the commission of an unlawful act, not amounting to a felony; or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection. This subdivision shall not apply to acts committed in the driving of a vehicle.

(c) Vehicular—

(1) Except as provided in subdivision (a) of Section 191.5, driving a vehicle in the commission of an unlawful act, not amounting to a felony, and with gross negligence; or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, and with gross negligence.

(2) Driving a vehicle in the commission of an unlawful act, not amounting to a felony, but without gross negligence; or driving a vehicle in the commission of a lawful act which might produce death, in an unlawful manner, but without gross negligence.

(3) Driving a vehicle in connection with a violation of paragraph (3) of subdivision (a) of Section 550, where the vehicular collision or vehicular accident was knowingly caused for financial gain and proximately resulted in the death of any person. This paragraph does not prevent prosecution of a defendant for the crime of murder.

(d) This section shall not be construed as making any homicide in the driving of a vehicle punishable that is not a proximate result of the commission of an unlawful act, not amounting to a felony, or of the commission of a lawful act which might produce death, in an unlawful manner.

(e) (1) "Gross negligence," as used in this section, does not prohibit or preclude a charge of murder under Section 188 upon facts exhibiting wantonness and a conscious disregard for life to support a finding of implied malice, or upon facts showing malice, consistent with the holding of the California Supreme Court in *People v. Watson* (1981) 30 Cal.3d 290.

(2) "Gross negligence," as used in this section, may include, based on the totality of the circumstances, any of the following:

(A) Participating in a sideshow pursuant to subparagraph (A) of subparagraph (2) of subdivision (i) of Section 23109 of the Vehicle Code.

(B) Engaging in a motor vehicle speed contest pursuant to subdivision (a) of Section 23109 of the Vehicle Code.

(C) Speeding over 100 miles per hour.

(f) (1) For purposes of determining sudden quarrel or heat of passion pursuant to subdivision (a), the provocation was not objectively reasonable if it resulted from the discovery of, knowledge about, or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression, or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance towards the defendant, or if the defendant and victim dated or had a romantic or sexual relationship. Nothing in this section shall preclude the jury from considering all relevant facts to determine whether the defendant was in fact provoked for purposes of establishing subjective provocation.

(2) For purposes of this subdivision, "gender" includes a person's gender identity and gender-related appearance and behavior regardless of whether that appearance or behavior is associated with the person's gender as determined at birth.

SEC. 4. Section 457.1 of the Penal Code is amended to read:

457.1. (a) As used in this section, "arson" means a violation of Section 451, 451.5, or 453, and attempted arson, which includes, but is not limited to, a violation of Section 455.

(b) (1) Every person described in paragraph (2), (3), and (4), for the periods specified therein, shall, while residing in, or if the person has no residence, while located in California, be required to, within 14 days of coming into, or changing the person's residence or location within any city, county, city and county, or campus wherein the person temporarily resides, or if the person has no residence, is located:

(A) Register with the chief of police of the city where the person is residing, or if the person has no residence, where the person is located.

(B) Register with the sheriff of the county where the person is residing, or if the person has no residence, where the person is located in an unincorporated area or city that has no police department.

(C) In addition to (A) or (B) above, register with the chief of police of a campus of the University of California, the California State University, or community college where the person is residing, or if the person has no residence, where the person is located upon the campus or any of its facilities.

(2) Any person who, on or after November 30, 1994, is convicted in any court in this state of arson or attempted arson shall be required to register, in accordance with the provisions of this section, for the rest of their life.

(3) Any person who, having committed the offense of arson or attempted arson, and after having been adjudicated a ward of the juvenile court on or after January 1, 1993, is discharged or paroled from the Division of Juvenile Justice shall be required to register, in accordance with the provisions of this section, until that person attains 25 years of age, or until the person has their records sealed pursuant to Section 781 of the Welfare and Institutions Code, whichever comes first.

(4) Any person convicted of the offense of arson or attempted arson on or after January 1, 1985, through November 29, 1994, inclusive, in any court of this state, shall be required to register, in accordance with the provisions of this section, for a period of five years commencing, in the case where the person was confined for the offense, from the date of their release from

confinement, or in the case where the person was not confined for the offense, from the date of sentencing or discharge, if that person was ordered by the court at the time that person was sentenced to register as an arson offender. The law enforcement agencies shall make registration information available to the chief fire official of a legally organized fire department or fire protection district having local jurisdiction where the person resides.

(c) Any person required to register pursuant to this section who is discharged or paroled from a jail, prison, school, road camp, or other penal institution, or from the Division of Juvenile Justice where they were confined because of the commission or attempted commission of arson, shall, prior to the discharge, parole, or release, be informed of their duty to register under this section by the official in charge of the place of confinement. The official shall require the person to read and sign the form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to them. The official in charge of the place of confinement shall obtain the address where the person expects to reside upon their discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement shall give one copy of the form to the person, and shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon their discharge, parole, or release; one copy to the prosecuting agency that prosecuted the person; one copy to the chief fire official of a legally organized fire department or fire protection district having local jurisdiction where the person expects to reside upon their discharge, parole, or release; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall be transmitted in time so as to be received by the local law enforcement agency and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(d) All records relating specifically to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register under this subdivision for offenses adjudicated by a juvenile court attains 25 years of age or has their records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed to require the destruction of other criminal offender or juvenile records relating to the case that are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by the court under Section 781 of the Welfare and Institutions Code.

(e) Any person who is required to register pursuant to this section who is released on probation or discharged upon payment of a fine shall, prior to the release or discharge, be informed of their duty to register under this section by the probation department of the county in which they have been convicted, and the probation officer shall require the person to read and sign the form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to them. The probation officer shall obtain the address where the person expects to reside upon their release or discharge and shall report within three days the address to the Department of Justice. The probation officer shall give one copy of the form to the person, and shall send one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon their discharge or release, one copy to the prosecuting agency that prosecuted the person, one copy to the chief fire official of a legally organized fire department or fire protection district having local jurisdiction where the person expects to reside upon their discharge or release, and one copy to the Department of Justice. The probation officer shall also retain one copy.

(f) The registration shall consist of (1) a statement in writing signed by the person, giving the information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency shall electronically forward the statement, fingerprints, and photograph to the Department of Justice.

(g) If any person required to register by this section changes their residence address, they shall inform, in writing within 10 days, the law enforcement agency with whom they last registered of their new address. The law enforcement agency shall, within three days after receipt of the information, electronically forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

(h) Any person required to register under this section who violates any of the provisions thereof is guilty of a misdemeanor. Any person who has been convicted of arson or attempted arson and who is required to register under this section who willfully violates any of the provisions thereof is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

(i) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the Division of Juvenile Justice, or the court, as the case may be, shall order the parole or probation of that person revoked.

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

(k) In any case in which a person who would be required to register pursuant to this section is to be temporarily sent outside the institution where they are confined on any assignment within a city or county, including, but not limited to, firefighting or disaster control, the local law enforcement agency having jurisdiction over the place or places where that assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision shall not apply to any person temporarily released under guard from the institution where they are confined.

(l) Nothing in this section shall be construed to conflict with Section 1203.4 concerning termination of probation and release from penalties and disabilities of probation.

A person required to register under this section may initiate a proceeding under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 and, upon obtaining a certificate of rehabilitation, shall be relieved of any further duty to register under this section. This certificate shall not relieve the petitioner of the duty to register under this section for any offense subject to this section of which they are convicted in the future.

Any person who is required to register under this section due to a misdemeanor conviction shall be relieved of the requirement to register if that person is granted relief pursuant to Section 1203.4.

(m) For purposes of this section, a discharged person shall include all of the following:

(1) A ward in the custody of the Department of Corrections and Rehabilitation, Division of Juvenile Justice on or after July 1, 2022, who, prior to discharge, is returned by the division or the chief probation officer of the county to the court of jurisdiction for alternative disposition, specifically due to the statutorily required closure of the division. The division shall inform the ward of the duty to register prior to the ward being returned to the court.

(2) A patient described in Section 1732.10 of the Welfare and Institutions Code. The division shall inform the patient of the duty to register immediately prior to closure of the division.

(3) A person described in Section 1732.9 of the Welfare and Institutions Code. The Department of Corrections and Rehabilitation shall inform the person of the duty to register immediately prior to the person being returned to the court of jurisdiction.

(n) The court of jurisdiction shall establish the point at which the ward described in subdivision (m) is required to register and notify the Department of Justice of its decision.

SEC. 5. Section 679.027 of the Penal Code is amended to read:

679.027. (a) Every law enforcement agency investigating a criminal act and every agency prosecuting a criminal act shall, as provided herein, at the time of initial contact with a crime victim, during followup investigation, or as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys, inform each victim, or the victim's next of kin if the victim is deceased, of the rights they may have under applicable law relating to the victimization, including rights relating to housing, employment, compensation, and immigration relief.

(b) (1) Every law enforcement agency investigating a criminal act and every agency prosecuting a criminal act shall, as provided herein, at the time of initial contact with a crime victim, during followup investigation, or as soon thereafter as deemed appropriate by investigating officers or prosecuting attorneys, provide or make available to each victim of the criminal act without charge or cost a "Victim Protections and Resources" card described in paragraph (3).

(2) The Victim Protections and Resources card may be designed as part of and included with the "Marsy Rights" card described by Section 679.026.

(3) By June 1, 2025, the Attorney General shall design and make available in PDF or other imaging format to every agency listed in paragraph (1) a "Victim Protections and Resources" card, which shall contain information in lay terms about victim rights and resources, including, but not limited to, the following:

(A) Information about the rights provided by Sections 230 and 230.1 of the Labor Code.

(B) Information about the rights provided by Section 1946.7 of the Civil Code.

(C) Information about the rights provided by Section 1161.3 of the Code of Civil Procedure, including information in lay terms about which crimes and tenants are eligible and under what circumstances.

(D) Information about federal immigration relief available to certain victims of crime.

(E) Information about the program established by Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code, including information about the types of expenses the program may reimburse, eligibility, and

how to apply.

(F) Information about the program established by Chapter 3.1 (commencing with Section 6205) of Division 7 of Title 1 of the Government Code.

(G) Information about eligibility for filing a restraining or protective order.

(H) Contact information for the Victims' Legal Resource Center established by Chapter 11 (commencing with Section 13897) of Title 6 of Part 4.

(I) A list of trauma recovery centers funded by the state pursuant to Section 13963.1 of the Government Code, with their contact information, which shall be updated annually.

(c) This section shall become operative on July 1, 2024, only if General Fund moneys over the multiyear forecasts beginning in the 2024–25 fiscal year are available to support ongoing augmentations and actions, and if an appropriation is made to backfill the Restitution Fund to support the actions in this section.

SEC. 6. Section 745 of the Penal Code is amended to read:

745. (a) The state shall not seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of race, ethnicity, or national origin. A violation is established if the defendant proves, by a preponderance of the evidence, any of the following:

(1) The judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin.

(2) During the defendant's trial, in court and during the proceedings, the judge, an attorney in the case, a law enforcement officer involved in the case, an expert witness, or juror, used racially discriminatory language about the defendant's race, ethnicity, or national origin, or otherwise exhibited bias or animus towards the defendant because of the defendant's race, ethnicity, or national origin, whether or not purposeful. This paragraph does not apply if the person speaking is relating language used by another that is relevant to the case or if the person speaking is giving a racially neutral and unbiased physical description of the suspect.

(3) The defendant was charged or convicted of a more serious offense than defendants of other races, ethnicities, or national origins who have engaged in similar conduct and are similarly situated, and the evidence establishes that the prosecution more frequently sought or obtained convictions for more serious offenses against people who share the defendant's race, ethnicity, or national origin in the county where the convictions were sought or obtained.

(4) (A) A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for that offense on people that share the defendant's race, ethnicity, or national origin than on defendants of other races, ethnicities, or national origins in the county where the sentence was imposed.

(B) A longer or more severe sentence was imposed on the defendant than was imposed on other similarly situated individuals convicted of the same offense, and longer or more severe sentences were more frequently imposed for the same offense on defendants in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races, ethnicities, or national origins, in the county where the sentence was imposed.

(b) A defendant may file a motion in the trial court or, if judgment has been imposed, may file a petition for writ of habeas corpus or a motion under Section 1473.7 in a court of competent jurisdiction, alleging a violation of subdivision (a). If the motion is based in whole or in part on conduct or statements by the judge, the judge shall disqualify themselves from any further proceedings under this section.

(c) If a motion is filed in the trial court and the defendant makes a prima facie showing of a violation of subdivision (a), the trial court shall hold a hearing. A motion made at trial shall be made as soon as practicable upon the defendant learning of the alleged violation. A motion that is not timely may be deemed waived, in the discretion of the court.

(1) At the hearing, evidence may be presented by either party, including, but not limited to, statistical evidence, aggregate data, expert testimony, and the sworn testimony of witnesses. The court may also appoint an independent expert. For the purpose of a motion and hearing under this section, out-of-court statements that the court finds trustworthy and reliable, statistical evidence, and aggregated data are admissible for the limited purpose of determining whether a violation of subdivision (a) has occurred.

(2) The defendant shall have the burden of proving a violation of subdivision (a) by a preponderance of the evidence. The defendant does not need to prove intentional discrimination.

(3) At the conclusion of the hearing, the court shall make findings on the record.

(d) A defendant may file a motion requesting disclosure to the defense of all evidence relevant to a potential violation of subdivision (a) in the possession or control of the state. A motion filed under this section shall describe the type of records or information the defendant seeks. Upon a showing of good cause, the court shall order the records to be released. Upon a showing of good cause, and in order to protect a privacy right or privilege, the court may permit the prosecution to redact information prior to disclosure or may subject disclosure to a protective order. If a statutory privilege or constitutional privacy right cannot be adequately protected by redaction or a protective order, the court shall not order the release of the records.

(e) Notwithstanding any other law, except as provided in subdivision (k), or for an initiative approved by the voters, if the court finds, by a preponderance of evidence, a violation of subdivision (a), the court shall impose a remedy specific to the violation found from the following list:

(1) Before a judgment has been entered, the court may impose any of the following remedies:

(A) Declare a mistrial, if requested by the defendant.

(B) Discharge the jury panel and empanel a new jury.

(C) If the court determines that it would be in the interest of justice, dismiss enhancements, special circumstances, or special allegations, or reduce one or more charges.

(2) (A) After a judgment has been entered, if the court finds that a conviction was sought or obtained in violation of subdivision (a), the court shall vacate the conviction and sentence, find that it is legally invalid, and order new proceedings consistent with subdivision (a). If the court finds that the only violation of subdivision (a) that occurred is based on paragraph (3) of subdivision (a), the court may modify the judgment to a lesser included or lesser related offense. On resentencing, the court shall not impose a new sentence greater than that previously imposed.

(B) After a judgment has been entered, if the court finds that only the sentence was sought, obtained, or imposed in violation of subdivision (a), the court shall vacate the sentence, find that it is legally invalid, and impose a new sentence. On resentencing, the court shall not impose a new sentence greater than that previously imposed.

(3) When the court finds there has been a violation of subdivision (a), the defendant shall not be eligible for the death penalty.

(4) The remedies available under this section do not foreclose any other remedies available under the United States Constitution, the California Constitution, or any other law.

(f) This section also applies to adjudications and dispositions in the juvenile delinquency system and adjudications to transfer a juvenile case to adult court.

(g) This section shall not prevent the prosecution of hate crimes pursuant to Sections 422.6 to 422.865, inclusive.

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

(1) "More frequently sought or obtained" or "more frequently imposed" means that the totality of the evidence demonstrates a significant difference in seeking or obtaining convictions or in imposing sentences comparing individuals who have engaged in similar conduct and are similarly situated, and the prosecution cannot establish race-neutral reasons for the disparity. The evidence may include statistical evidence, aggregate data, or nonstatistical evidence. Statistical significance is a factor the court may consider, but is not necessary to establish a significant difference. In evaluating the totality of the evidence, the court shall consider whether systemic and institutional racial bias, racial profiling, and historical patterns of racially biased policing and prosecution may have contributed to, or caused differences observed in, the data or impacted the availability of data overall. Race-neutral reasons shall be relevant factors to charges, convictions, and sentences that are not influenced by implicit, systemic, or institutional bias based on race, ethnicity, or national origin.

(2) "Prima facie showing" means that the defendant produces facts that, if true, establish that there is a substantial likelihood that a violation of subdivision (a) occurred. For purposes of this section, a "substantial likelihood" requires more than a mere possibility, but less than a standard of more likely than not.

(3) "Relevant factors," as that phrase applies to sentencing, means the factors in the California Rules of Court that pertain to sentencing decisions and any additional factors required to or permitted to be considered in sentencing under state law and under the state and federal constitutions.

(4) "Racially discriminatory language" means language that, to an objective observer, explicitly or implicitly appeals to racial bias, including, but not limited to, racially charged or racially coded language, language that compares the defendant to an animal, or language that references the defendant's physical appearance, culture, ethnicity, or national origin. Evidence that

particular words or images are used exclusively or disproportionately in cases where the defendant is of a specific race, ethnicity, or national origin is relevant to determining whether language is discriminatory.

(5) "State" includes the Attorney General, a district attorney, or a city prosecutor.

(6) "Similarly situated" means that factors that are relevant in charging and sentencing are similar and do not require that all individuals in the comparison group are identical. A defendant's conviction history may be a relevant factor to the severity of the charges, convictions, or sentences. If it is a relevant factor and the defense produces evidence that the conviction history may have been impacted by racial profiling or historical patterns of racially biased policing, the court shall consider the evidence.

(i) A defendant may share a race, ethnicity, or national origin with more than one group. A defendant may aggregate data among groups to demonstrate a violation of subdivision (a).

(j) This section applies as follows:

(1) To all cases in which judgment is not final.

(2) Commencing January 1, 2023, to all cases in which, at the time of the filing of a petition pursuant to subdivision (f) of Section 1473 raising a claim under this section, the petitioner is sentenced to death or to cases in which the motion is filed pursuant to Section 1473.7 because of actual or potential immigration consequences related to the conviction or sentence, regardless of when the judgment or disposition became final.

(3) Commencing January 1, 2024, to all cases in which, at the time of the filing of a petition pursuant to subdivision (f) of Section 1473 raising a claim under this section, the petitioner is currently serving a sentence in the state prison or in a county jail pursuant to subdivision (h) of Section 1170, or committed to the Division of Juvenile Justice for a juvenile disposition, regardless of when the judgment or disposition became final.

(4) Commencing January 1, 2025, to all cases filed pursuant to Section 1473.7 or subdivision (f) of Section 1473 in which judgment became final for a felony conviction or juvenile disposition that resulted in a commitment to the Division of Juvenile Justice on or after January 1, 2015.

(5) Commencing January 1, 2026, to all cases filed pursuant to Section 1473.7 or subdivision (f) of Section 1473 in which judgment was for a felony conviction or juvenile disposition that resulted in a commitment to the Division of Juvenile Justice, regardless of when the judgment or disposition became final.

(k) For petitions that are filed in cases for which judgment was entered before January 1, 2021, and only in those cases, if the petition is based on a violation of paragraph (1) or (2) of subdivision (a), the petitioner shall be entitled to relief as provided in subdivision (e), unless the state proves beyond a reasonable doubt that the violation did not contribute to the judgment.

SEC. 7. Section 1004 of the Penal Code is amended to read:

1004. The defendant may demur to the accusatory pleading at any time prior to the entry of a plea, when it appears upon the face thereof either:

(a) If an indictment, that the grand jury by which it was found had no legal authority to inquire into the offense charged, or, if any information or complaint that the court has no jurisdiction of the offense charged therein.

(b) That it does not substantially conform to the provisions of Sections 950 and 952, and also Section 951 in case of an indictment or information.

(c) That more than one offense is charged, except as provided in Section 954.

(d) That the facts stated do not constitute a public offense.

(e) That it contains matter which, if true, would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution.

(f) That the statutory provision alleged in the accusatory pleading is constitutionally invalid.

SEC. 8. 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, or successfully participated at an institutional firehouse, as determined by the Secretary of the Department of

Corrections and Rehabilitation, 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 or a program at an institutional firehouse 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 institutional firehouse, 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 a defendant convicted of any offense listed in subparagraphs (A) to (H), inclusive, of paragraph (1) of subdivision (a) is 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.

(5) Dismissal of an accusation or information pursuant to this section does not release the defendant from the terms and conditions of any unexpired criminal protective order that has been issued by the court pursuant to paragraph (1) of subdivision (i) of Section 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section 368, or subdivision (k) of Section 646.9. These protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying accusation or information.

(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. 9. Section 1370 of the Penal Code is amended to read:

1370. (a) (1) (A) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged or hearing on the alleged violation shall proceed, and judgment may be pronounced.

(B) If the defendant is found mentally incompetent, the trial, the hearing on the alleged violation, or the judgment shall be suspended until the person becomes mentally competent.

(i) The court shall order that the mentally incompetent defendant be delivered by the sheriff to a State Department of State Hospitals facility, as defined in Section 4100 of the Welfare and Institutions Code, as directed by the State Department of State Hospitals, or to any other available public or private treatment facility, including a community-based residential treatment system approved by the community program director, or their designee, that will promote the defendant's speedy restoration to mental competence, or placed on outpatient status as specified in Section 1600.

(ii) However, if the action against the defendant who has been found mentally incompetent is on a complaint charging a felony offense specified in Section 290, the prosecutor shall determine whether the defendant previously has been found mentally incompetent to stand trial pursuant to this chapter on a charge of a Section 290 offense, or whether the defendant is currently the subject of a pending Section 1368 proceeding arising out of a charge of a Section 290 offense. If either determination is made, the prosecutor shall notify the court and defendant in writing. After this notification, and opportunity for hearing, the court shall order that the defendant be delivered by the sheriff to a State Department of State Hospitals facility, as directed by the State Department of State Hospitals, or other secure treatment facility for the care and treatment of persons with a mental health disorder, unless the court makes specific findings on the record that an alternative placement would provide more appropriate treatment for the defendant and would not pose a danger to the health and safety of others.

(iii) If the action against the defendant who has been found mentally incompetent is on a complaint charging a felony offense specified in Section 290 and the defendant has been denied bail pursuant to subdivision (b) of Section 12 of Article I of the California Constitution because the court has found, based upon clear and convincing evidence, a substantial likelihood that the person's release would result in great bodily harm to others, the court shall order that the defendant be delivered by the sheriff to a State Department of State Hospitals facility, as directed by the State Department of State Hospitals, unless the court makes specific findings on the record that an alternative placement would provide more appropriate treatment for the defendant and would not pose a danger to the health and safety of others.

(iv) (I) If, at any time after the court finds that the defendant is mentally incompetent and before the defendant is transported to a facility pursuant to this section, the court is provided with any information that the defendant may benefit from diversion pursuant to Chapter 2.8A (commencing with Section 1001.35) of Title 6, the court may make a finding that the defendant is an appropriate candidate for diversion.

(II) Notwithstanding subclause (I), if a defendant is found mentally incompetent and is transferred to a facility described in Section 4361.6 of the Welfare and Institutions Code, the court may, at any time upon receiving any information that the defendant may benefit from diversion pursuant to Chapter 2.8A (commencing with Section 1001.35) of Title 6, make a finding that the defendant is an appropriate candidate for diversion.

(v) If a defendant is found by the court to be an appropriate candidate for diversion pursuant to clause (iv), the defendant's eligibility shall be determined pursuant to Section 1001.36. A defendant granted diversion may participate for the lesser of the period specified in paragraph (1) of subdivision (c) or two years. If, during that period, the court determines that criminal proceedings should be reinstated pursuant to subdivision (d) of Section 1001.36, the court shall, pursuant to Section 1369, appoint a psychiatrist, licensed psychologist, or any other expert the court may deem appropriate, to determine the defendant's competence to stand trial.

(vi) Upon the dismissal of charges at the conclusion of the period of diversion, pursuant to subdivision (e) of Section 1001.36, a defendant shall no longer be deemed incompetent to stand trial pursuant to this section.

(vii) The clerk of the court shall notify the Department of Justice, in writing, of a finding of mental incompetence with respect to a defendant who is subject to clause (ii) or (iii) for inclusion in the defendant's state summary criminal history information.

(C) Upon the filing of a certificate of restoration to competence, the court shall order that the defendant be returned to court in accordance with Section 1372. The court shall transmit a copy of its order to the community program director or a designee.

(D) A defendant charged with a violent felony may not be delivered to a State Department of State Hospitals facility or treatment facility pursuant to this subdivision unless the State Department of State Hospitals facility or treatment facility has a secured perimeter or a locked and controlled treatment facility, and the judge determines that the public safety will be protected.

(E) For purposes of this paragraph, "violent felony" means an offense specified in subdivision (c) of Section 667.5.

(F) A defendant charged with a violent felony may be placed on outpatient status, as specified in Section 1600, only if the court finds that the placement will not pose a danger to the health or safety of others. If the court places a defendant charged with a violent felony on outpatient status, as specified in Section 1600, the court shall serve copies of the placement order on defense counsel, the sheriff in the county where the defendant will be placed, and the district attorney for the county in which the violent felony charges are pending against the defendant.

(G) If, at any time after the court has declared a defendant incompetent to stand trial pursuant to this section, counsel for the defendant or a jail medical or mental health staff provider provides the court with substantial evidence that the defendant's psychiatric symptoms have changed to such a degree as to create a doubt in the mind of the judge as to the defendant's current mental incompetence, the court may appoint a psychiatrist or a licensed psychologist to opine as to whether the defendant has regained competence. If, in the opinion of that expert, the defendant has regained competence, the court shall proceed as if a certificate of restoration of competence has been returned pursuant to paragraph (1) of subdivision (a) of Section 1372.

(H) (i) The State Department of State Hospitals may, pursuant to Section 4335.2 of the Welfare and Institutions Code, conduct an evaluation of the defendant in county custody to determine any of the following:

(I) The defendant has regained competence.

(II) There is no substantial likelihood that the defendant will regain competence in the foreseeable future.

(III) The defendant should be referred to the county for further evaluation for potential participation in a county diversion program, if one exists, or to another outpatient treatment program.

(ii) If, in the opinion of the department's expert, the defendant has regained competence, the court shall proceed as if a certificate of restoration of competence has been returned pursuant to paragraph (1) of subdivision (a) of Section 1372.

(iii) If, in the opinion of the department's expert, there is no substantial likelihood that the defendant will regain mental competence in the foreseeable future, the committing court shall proceed pursuant to paragraph (3) of subdivision (c) no

later than 10 days following receipt of the report.

(2) Prior to making the order directing that the defendant be committed to the State Department of State Hospitals or other treatment facility or placed on outpatient status, the court shall proceed as follows:

(A) (i) The court shall order the community program director or a designee to evaluate the defendant and to submit to the court within 15 judicial days of the order a written recommendation as to whether the defendant should be required to undergo outpatient treatment, or be committed to the State Department of State Hospitals or to any other treatment facility. A person shall not be admitted to a State Department of State Hospitals facility or other treatment facility or placed on outpatient status under this section without having been evaluated by the community program director or a designee. The community program director or designee shall evaluate the appropriate placement for the defendant between a State Department of State Hospitals facility or the community-based residential treatment system based upon guidelines provided by the State Department of State Hospitals.

(ii) Commencing on July 1, 2023, a defendant shall first be considered for placement in an outpatient treatment program, a community treatment program, or a diversion program, if any such program is available, unless a court, based upon the recommendation of the community program director or their designee, finds that either the clinical needs of the defendant or the risk to community safety, warrant placement in a State Department of State Hospitals facility.

(B) The court shall hear and determine whether the defendant lacks capacity to make decisions regarding the administration of antipsychotic medication. The court shall consider opinions in the reports prepared pursuant to subdivision (a) of Section 1369, as applicable to the issue of whether the defendant lacks capacity to make decisions regarding the administration of antipsychotic medication, and shall proceed as follows:

(i) The court shall hear and determine whether any of the following is true:

(I) Based upon the opinion of the psychiatrist or licensed psychologist offered to the court pursuant to subparagraph (A) of paragraph (2) of subdivision (a) of Section 1369, the defendant lacks capacity to make decisions regarding antipsychotic medication, the defendant's mental disorder requires medical treatment with antipsychotic medication, and, if the defendant's mental disorder is not treated with antipsychotic medication, it is probable that serious harm to the physical or mental health of the defendant will result. Probability of serious harm to the physical or mental health of the defendant requires evidence that the defendant is presently suffering adverse effects to their physical or mental health, or the defendant has previously suffered these effects as a result of a mental disorder and their condition is substantially deteriorating. The fact that a defendant has a diagnosis of a mental disorder does not alone establish probability of serious harm to the physical or mental health of the defendant.

(II) Based upon the opinion of the psychiatrist or licensed psychologist offered to the court pursuant to subparagraph (A) of paragraph (2) of subdivision (a) of Section 1369, the defendant is a danger to others, in that the defendant has inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another while in custody, or the defendant had inflicted, attempted to inflict, or made a serious threat of inflicting substantial physical harm on another that resulted in the defendant being taken into custody, and the defendant presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm on others. Demonstrated danger may be based on an assessment of the defendant's present mental condition, including a consideration of past behavior of the defendant within six years prior to the time the defendant last attempted to inflict, inflicted, or threatened to inflict substantial physical harm on another, and other relevant evidence.

(III) The people have charged the defendant with a serious crime against the person or property, and based upon the opinion of the psychiatrist offered to the court pursuant to subparagraph (C) of paragraph (2) of subdivision (a) of Section 1369, the involuntary administration of antipsychotic medication is substantially likely to render the defendant competent to stand trial, the medication is unlikely to have side effects that interfere with the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner, less intrusive treatments are unlikely to have substantially the same results, and antipsychotic medication is appropriate in light of their medical condition.

(ii) (I) If the court finds the conditions described in subclause (I) or (II) of clause (i) to be true, and if pursuant to the opinion offered to the court pursuant to paragraph (2) of subdivision (a) of Section 1369, a psychiatrist has opined that treatment with antipsychotic medications is appropriate for the defendant, the court shall issue an order authorizing the administration of antipsychotic medication as needed, including on an involuntary basis, to be administered under the direction and supervision of a licensed psychiatrist.

(II) If the court finds the conditions described in subclause (I) or (II) of clause (i) to be true, and if pursuant to the opinion offered to the court pursuant to paragraph (2) of subdivision (a) of Section 1369, a licensed psychologist has

opined that treatment with antipsychotic medication may be appropriate for the defendant, the court shall issue an order authorizing treatment by a licensed psychiatrist on an involuntary basis. That treatment may include the administration of antipsychotic medication as needed, to be administered under the direction and supervision of a licensed psychiatrist.

(III) If the court finds the conditions described in subclause (III) of clause (i) to be true, and if pursuant to the opinion offered to the court pursuant to paragraph (2) of subdivision (a) of Section 1369, a psychiatrist has opined that it is appropriate to treat the defendant with antipsychotic medication, the court shall issue an order authorizing the administration of antipsychotic medication as needed, including on an involuntary basis, to be administered under the direction and supervision of a licensed psychiatrist.

(iii) An order authorizing involuntary administration of antipsychotic medication to the defendant when and as prescribed by the defendant's treating psychiatrist at any facility housing the defendant for purposes of this chapter, including a county jail, shall remain in effect when the defendant returns to county custody pursuant to subparagraph (A) of paragraph (1) of subdivision (b) or paragraph (1) of subdivision (c), or pursuant to subparagraph (C) of paragraph (3) of subdivision (a) of Section 1372, but shall be valid for no more than one year, pursuant to subparagraph (A) of paragraph (7). The court shall not order involuntary administration of psychotropic medication under subclause (III) of clause (i) unless the court has first found that the defendant does not meet the criteria for involuntary administration of psychotropic medication under subclause (I) of clause (i) and does not meet the criteria under subclause (II) of clause (i).

(iv) In all cases, the treating hospital, county jail, facility, or program may administer medically appropriate antipsychotic medication prescribed by a psychiatrist in an emergency as described in subdivision (m) of Section 5008 of the Welfare and Institutions Code.

(v) If the court has determined that the defendant has the capacity to make decisions regarding antipsychotic medication, and if the defendant, with advice of their counsel, consents, the court order of commitment shall include confirmation that antipsychotic medication may be given to the defendant as prescribed by a treating psychiatrist pursuant to the defendant's consent. The commitment order shall also indicate that, if the defendant withdraws consent for antipsychotic medication, after the treating psychiatrist complies with the provisions of subparagraph (C), the defendant shall be returned to court for a hearing in accordance with subparagraphs (C) and (D) regarding whether antipsychotic medication shall be administered involuntarily.

(vi) If the court has determined that the defendant has the capacity to make decisions regarding antipsychotic medication and if the defendant, with advice from their counsel, does not consent, the court order for commitment shall indicate that, after the treating psychiatrist complies with the provisions of subparagraph (C), the defendant shall be returned to court for a hearing in accordance with subparagraphs (C) and (D) regarding whether antipsychotic medication shall be administered involuntarily.

(vii) A report made pursuant to paragraph (1) of subdivision (b) shall include a description of antipsychotic medication administered to the defendant and its effects and side effects, including effects on the defendant's appearance or behavior that would affect the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner. During the time the defendant is confined in a State Department of State Hospitals facility or other treatment facility or placed on outpatient status, either the defendant or the people may request that the court review any order made pursuant to this subdivision. The defendant, to the same extent enjoyed by other patients in the State Department of State Hospitals facility or other treatment facility, shall have the right to contact the patients' rights advocate regarding the defendant's rights under this section.

(C) If the defendant consented to antipsychotic medication as described in clause (iv) of subparagraph (B), but subsequently withdraws their consent, or, if involuntary antipsychotic medication was not ordered pursuant to clause (v) of subparagraph (B), and the treating psychiatrist determines that antipsychotic medication has become medically necessary and appropriate, the treating psychiatrist shall make efforts to obtain informed consent from the defendant for antipsychotic medication. If informed consent is not obtained from the defendant, and the treating psychiatrist is of the opinion that the defendant lacks capacity to make decisions regarding antipsychotic medication based on the conditions described in subclause (I) or (II) of clause (i) of subparagraph (B), the treating psychiatrist shall certify whether the lack of capacity and any applicable conditions described above exist. That certification shall contain an assessment of the current mental status of the defendant and the opinion of the treating psychiatrist that involuntary antipsychotic medication has become medically necessary and appropriate.

(D) (i) If the treating psychiatrist certifies that antipsychotic medication has become medically necessary and appropriate pursuant to subparagraph (C), antipsychotic medication may be administered to the defendant for not more than 21 days, provided, however, that, within 72 hours of the certification, the defendant is provided a medication review hearing before an

administrative law judge to be conducted at the facility where the defendant is receiving treatment. The treating psychiatrist shall present the case for the certification for involuntary treatment and the defendant shall be represented by an attorney or a patients' rights advocate. The attorney or patients' rights advocate shall be appointed to meet with the defendant no later than one day prior to the medication review hearing to review the defendant's rights at the medication review hearing, discuss the process, answer questions or concerns regarding involuntary medication or the hearing, assist the defendant in preparing for the hearing and advocating for the defendant's interests at the hearing, review the panel's final determination following the hearing, advise the defendant of their right to judicial review of the panel's decision, and provide the defendant with referral information for legal advice on the subject. The defendant shall also have the following rights with respect to the medication review hearing:

- (I) To be given timely access to the defendant's records.
- (II) To be present at the hearing, unless the defendant waives that right.
- (III) To present evidence at the hearing.
- (IV) To question persons presenting evidence supporting involuntary medication.
- (V) To make reasonable requests for attendance of witnesses on the defendant's behalf.
- (VI) To a hearing conducted in an impartial and informal manner.

(ii) If the administrative law judge determines that the defendant either meets the criteria specified in subclause (I) of clause (i) of subparagraph (B), or meets the criteria specified in subclause (II) of clause (i) of subparagraph (B), antipsychotic medication may continue to be administered to the defendant for the 21-day certification period. Concurrently with the treating psychiatrist's certification, the treating psychiatrist shall file a copy of the certification and a petition with the court for issuance of an order to administer antipsychotic medication beyond the 21-day certification period. For purposes of this subparagraph, the treating psychiatrist shall not be required to pay or deposit any fee for the filing of the petition or other document or paper related to the petition.

(iii) If the administrative law judge disagrees with the certification, medication may not be administered involuntarily until the court determines that antipsychotic medication should be administered pursuant to this section.

(iv) The court shall provide notice to the prosecuting attorney and to the attorney representing the defendant, and shall hold a hearing, no later than 18 days from the date of the certification, to determine whether antipsychotic medication should be ordered beyond the certification period.

(v) If, as a result of the hearing, the court determines that antipsychotic medication should be administered beyond the certification period, the court shall issue an order authorizing the administration of that medication.

(vi) The court shall render its decision on the petition and issue its order no later than three calendar days after the hearing and, in any event, no later than the expiration of the 21-day certification period.

(vii) If the administrative law judge upholds the certification pursuant to clause (ii), the court may, for a period not to exceed 14 days, extend the certification and continue the hearing pursuant to stipulation between the parties or upon a finding of good cause. In determining good cause, the court may review the petition filed with the court, the administrative law judge's order, and any additional testimony needed by the court to determine if it is appropriate to continue medication beyond the 21-day certification and for a period of up to 14 days.

(viii) The district attorney, county counsel, or representative of a facility where a defendant found incompetent to stand trial is committed may petition the court for an order to administer involuntary medication pursuant to the criteria set forth in subclauses (II) and (III) of clause (i) of subparagraph (B). The order is reviewable as provided in paragraph (7).

(3) When the court orders that the defendant be committed to a State Department of State Hospitals facility or other public or private treatment facility, the court shall provide copies of the following documents prior to the admission of the defendant to the State Department of State Hospitals or other treatment facility where the defendant is to be committed:

(A) The commitment order, which shall include a specification of the charges, an assessment of whether involuntary treatment with antipsychotic medications is warranted, and any orders by the court, pursuant to subparagraph (B) of paragraph (2), authorizing involuntary treatment with antipsychotic medications.

(B) A computation or statement setting forth the maximum term of commitment in accordance with subdivision (c).

(C) (i) A computation or statement setting forth the amount of credit for time served, if any, to be deducted from the maximum term of commitment.

(ii) If a certificate of restoration of competency was filed with the court pursuant to Section 1372 and the court subsequently rejected the certification, a copy of the court order or minute order rejecting the certification shall be provided. The court order shall include a new computation or statement setting forth the amount of credit for time served, if any, to be deducted from the defendant's maximum term of commitment based on the court's rejection of the certification.

(D) State summary criminal history information.

(E) Jail classification records for the defendant's current incarceration.

(F) Arrest reports prepared by the police department or other law enforcement agency.

(G) Court-ordered psychiatric examination or evaluation reports.

(H) The community program director's placement recommendation report.

(I) Records of a finding of mental incompetence pursuant to this chapter arising out of a complaint charging a felony offense specified in Section 290 or a pending Section 1368 proceeding arising out of a charge of a Section 290 offense.

(J) Medical records, including jail mental health records.

(4) When the defendant is committed to a treatment facility pursuant to clause (i) of subparagraph (B) of paragraph (1) or the court makes the findings specified in clause (ii) or (iii) of subparagraph (B) of paragraph (1) to assign the defendant to a treatment facility other than a State Department of State Hospitals facility or other secure treatment facility, the court shall order that notice be given to the appropriate law enforcement agency or agencies having local jurisdiction at the placement facility of a finding of mental incompetence pursuant to this chapter arising out of a charge of a Section 290 offense.

(5) When directing that the defendant be confined in a State Department of State Hospitals facility pursuant to this subdivision, the court shall commit the defendant to the State Department of State Hospitals.

(6) (A) If the defendant is committed or transferred to the State Department of State Hospitals pursuant to this section, the court may, upon receiving the written recommendation of the medical director of the State Department of State Hospitals facility and the community program director that the defendant be transferred to a public or private treatment facility approved by the community program director, order the defendant transferred to that facility. If the defendant is committed or transferred to a public or private treatment facility approved by the community program director, the court may, upon receiving the written recommendation of the community program director, transfer the defendant to the State Department of State Hospitals or to another public or private treatment facility approved by the community program director. In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). If either the defendant or the prosecutor chooses to contest either kind of order of transfer, a petition may be filed in the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At the hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as are used in conducting probation revocation hearings pursuant to Section 1203.2.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the community program director or a designee.

(B) If the defendant is initially committed to a State Department of State Hospitals facility or secure treatment facility pursuant to clause (ii) or (iii) of subparagraph (B) of paragraph (1) and is subsequently transferred to any other facility, copies of the documents specified in paragraph (3) shall be electronically transferred or taken with the defendant to each subsequent facility to which the defendant is transferred. The transferring facility shall also notify the appropriate law enforcement agency or agencies having local jurisdiction at the site of the new facility that the defendant is a person subject to clause (ii) or (iii) of subparagraph (B) of paragraph (1).

(7) (A) An order by the court authorizing involuntary medication of the defendant shall be valid for no more than one year. The court shall review the order at the time of the review of the initial report and the six-month progress reports pursuant to paragraph (1) of subdivision (b) to determine if the grounds for the authorization remain. In the review, the court shall consider the reports of the treating psychiatrist or psychiatrists and the defendant's patients' rights advocate or attorney. The court may require testimony from the treating psychiatrist and the patients' rights advocate or attorney, if necessary. The court may continue the order authorizing involuntary medication for up to another six months, or vacate the order, or make any other appropriate order.

(B) Within 60 days before the expiration of the one-year involuntary medication order, the district attorney, county counsel, or representative of any facility where a defendant found incompetent to stand trial is committed may petition the committing

court for a renewal, subject to the same conditions and requirements as in subparagraph (A). The petition shall include the basis for involuntary medication set forth in clause (i) of subparagraph (B) of paragraph (2). Notice of the petition shall be provided to the defendant, the defendant's attorney, and the district attorney. The court shall hear and determine whether the defendant continues to meet the criteria set forth in clause (i) of subparagraph (B) of paragraph (2). The hearing on a petition to renew an order for involuntary medication shall be conducted prior to the expiration of the current order.

(8) For purposes of subparagraph (D) of paragraph (2) and paragraph (7), if the treating psychiatrist determines that there is a need, based on preserving their rapport with the defendant or preventing harm, the treating psychiatrist may request that the facility medical director designate another psychiatrist to act in the place of the treating psychiatrist. If the medical director of the facility designates another psychiatrist to act pursuant to this paragraph, the treating psychiatrist shall brief the acting psychiatrist of the relevant facts of the case and the acting psychiatrist shall examine the defendant prior to the hearing.

(b) (1) Within 90 days after a commitment made pursuant to subdivision (a), the medical director of the State Department of State Hospitals facility or other treatment facility to which the defendant is confined shall make a written report to the court and the community program director for the county or region of commitment, or a designee, concerning the defendant's progress toward recovery of mental competence and whether the administration of antipsychotic medication remains necessary.

If the defendant is in county custody, the county jail shall provide access to the defendant for purposes of the State Department of State Hospitals conducting an evaluation of the defendant pursuant to Section 4335.2 of the Welfare and Institutions Code. Based upon this evaluation, the State Department of State Hospitals may make a written report to the court within 90 days of a commitment made pursuant to subdivision (a) concerning the defendant's progress toward recovery of mental competence and whether the administration of antipsychotic medication is necessary. If the defendant remains in county custody after the initial 90-day report, the State Department of State Hospitals may conduct an evaluation of the defendant pursuant to Section 4335.2 of the Welfare and Institutions Code and make a written report to the court concerning the defendant's progress toward recovery of mental competence and whether the administration of antipsychotic medication is necessary.

If the defendant is on outpatient status, the outpatient treatment staff shall make a written report to the community program director concerning the defendant's progress toward recovery of mental competence. Within 90 days of placement on outpatient status, the community program director shall report to the court on this matter. If the defendant has not recovered mental competence, but the report discloses a substantial likelihood that the defendant will regain mental competence in the foreseeable future, the defendant shall remain in the State Department of State Hospitals facility or other treatment facility or on outpatient status. Thereafter, at six-month intervals or until the defendant becomes mentally competent, if the defendant is confined in a treatment facility, the medical director of the State Department of State Hospitals facility or person in charge of the facility shall report, in writing, to the court and the community program director or a designee regarding the defendant's progress toward recovery of mental competence and whether the administration of antipsychotic medication remains necessary. If the defendant is on outpatient status, after the initial 90-day report, the outpatient treatment staff shall report to the community program director on the defendant's progress toward recovery, and the community program director shall report to the court on this matter at six-month intervals. A copy of these reports shall be provided to the prosecutor and defense counsel by the court.

(A) If the report indicates that there is no substantial likelihood that the defendant will regain mental competence in the foreseeable future, custody of the defendant shall be transferred without delay to the committing county and shall remain with the county until further order of the court. The defendant shall be returned to the court for proceedings pursuant to paragraph (3) of subdivision (c) no later than 10 days following receipt of the report. The court shall not order the defendant returned to the custody of the State Department of State Hospitals under the same commitment. The court shall transmit a copy of its order to the community program director or a designee.

(B) If the report indicates that there is no substantial likelihood that the defendant will regain mental competence in the foreseeable future, the medical director of the State Department of State Hospitals facility or other treatment facility to which the defendant is confined shall do both of the following:

(i) Promptly notify and provide a copy of the report to the defense counsel and the district attorney.

(ii) Provide a separate notification, in compliance with applicable privacy laws, to the committing county's sheriff that immediate transportation will be needed for the defendant pursuant to subparagraph (A).

(C) If a county does not take custody of a defendant committed to the State Department of State Hospitals within 10 calendar days following notification made pursuant to clause (ii) of subparagraph (B), the county shall be charged the daily rate for a state hospital bed, as established by the State Department of State Hospitals.

(2) The reports made pursuant to paragraph (1) concerning the defendant's progress toward regaining competency shall also consider the issue of involuntary medication pursuant to paragraph (2) of subdivision (a) of Section 1369. Each report may include, but not be limited to, all of the following:

(A) Whether or not the defendant has the capacity to make decisions concerning antipsychotic medication.

(B) If the defendant lacks capacity to make decisions concerning antipsychotic medication, whether the defendant risks serious harm to their physical or mental health if not treated with antipsychotic medication.

(C) Whether or not the defendant presents a danger to others if the defendant is not treated with antipsychotic medication.

(D) Whether the defendant has a mental disorder for which medications are the only effective treatment.

(E) Whether there are any side effects from the medication currently being experienced by the defendant that would interfere with the defendant's ability to collaborate with counsel.

(F) Whether there are any effective alternatives to medication.

(G) How quickly the medication is likely to bring the defendant to competency.

(H) Whether the treatment plan includes methods other than medication to restore the defendant to competency.

(I) A statement, if applicable, that no medication is likely to restore the defendant to competency.

(3) After reviewing the reports, the court shall determine if grounds for the involuntary administration of antipsychotic medication exist, whether or not an order was issued at the time of commitment, and shall do one of the following:

(A) If the original grounds for involuntary medication still exist, any order authorizing the treating facility to involuntarily administer antipsychotic medication to the defendant shall remain in effect.

(B) If the original grounds for involuntary medication no longer exist, and there is no other basis for involuntary administration of antipsychotic medication, any order for the involuntary administration of antipsychotic medication shall be vacated.

(C) If the original grounds for involuntary medication no longer exist, and the report states that there is another basis for involuntary administration of antipsychotic medication, the court shall determine whether to vacate the order or issue a new order for the involuntary administration of antipsychotic medication. The court shall consider the opinions in reports submitted pursuant to paragraph (1) of subdivision (b), including any opinions rendered pursuant to Section 4335.2 of the Welfare and Institutions Code. The court may, upon a showing of good cause, set a hearing within 21 days to determine whether the order for the involuntary administration of antipsychotic medication shall be vacated or whether a new order for the involuntary administration of antipsychotic medication shall be issued. The hearing shall proceed as set forth in subparagraph (B) of paragraph (2) of subdivision (a). The court shall require witness testimony to occur remotely, including clinical testimony pursuant to subdivision (d) of Section 4335.2 of the Welfare and Institutions Code. In-person witness testimony shall only be allowed upon a court's finding of good cause.

(D) If the report states a basis for involuntary administration of antipsychotic medication and the court did not issue such order at the time of commitment, the court shall determine whether to issue an order for the involuntary administration of antipsychotic medication. The court shall consider the opinions in reports submitted pursuant to paragraph (1) of subdivision (b), including any opinions rendered pursuant to Section 4335.2 of the Welfare and Institutions Code. The court may, upon a finding of good cause, set a hearing within 21 days to determine whether an order for the involuntary administration of antipsychotic medication shall be issued. The hearing shall proceed as set forth in subparagraph (B) of paragraph (2) of subdivision (a). The court shall require witness testimony to occur remotely, including clinical testimony pursuant to subdivision (d) of Section 4335.2 of the Welfare and Institutions Code. In-person witness testimony shall only be allowed upon a court's finding of good cause.

(4) If it is determined by the court that treatment for the defendant's mental impairment is not being conducted, the defendant shall be returned to the committing court, and, if the defendant is not in county custody, returned to the custody of the county. The court shall transmit a copy of its order to the community program director or a designee.

(5) At each review by the court specified in this subdivision, the court shall determine if the security level of housing and treatment is appropriate and may make an order in accordance with its determination. If the court determines that the defendant shall continue to be treated in the State Department of State Hospitals facility or on an outpatient basis, the court shall determine issues concerning administration of antipsychotic medication, as set forth in subparagraph (B) of paragraph (2) of subdivision (a).

(c) (1) At the end of two years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or misdemeanor complaint, or the maximum term of imprisonment provided by law for a violation of probation or mandatory supervision, whichever is shorter,

but no later than 90 days prior to the expiration of the defendant's term of commitment, a defendant who has not recovered mental competence shall be returned to the committing court, and custody of the defendant shall be transferred without delay to the committing county and shall remain with the county until further order of the court. The court shall not order the defendant returned to the custody of the State Department of State Hospitals under the same commitment. The court shall notify the community program director or a designee of the return and of any resulting court orders.

(2) (A) The medical director of the State Department of State Hospitals facility or other treatment facility to which the defendant is confined shall provide notification, in compliance with applicable privacy laws, to the committing county's sheriff that immediate transportation will be needed for the defendant pursuant to paragraph (1).

(B) If a county does not take custody of a defendant committed to the State Department of State Hospitals within 10 calendar days following notification pursuant to subparagraph (A), the county shall be charged the daily rate for a state hospital bed, as established by the State Department of State Hospitals.

(3) Whenever a defendant is returned to the court pursuant to paragraph (1) or (4) of subdivision (b) or paragraph (1) of this subdivision and it appears to the court that the defendant is gravely disabled, as defined in subparagraph (A) or (B) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, the court shall order the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings for the defendant pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Hearings required in the conservatorship proceedings shall be held in the superior court in the county that ordered the commitment. The court shall transmit a copy of the order directing initiation of conservatorship proceedings to the community program director or a designee, the sheriff and the district attorney of the county in which criminal charges are pending, and the defendant's counsel of record. The court shall notify the community program director or a designee, the sheriff and district attorney of the county in which criminal charges are pending, and the defendant's counsel of record of the outcome of the conservatorship proceedings.

(4) If a change in placement is proposed for a defendant who is committed pursuant to subparagraph (A) or (B) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, the court shall provide notice and an opportunity to be heard with respect to the proposed placement of the defendant to the sheriff and the district attorney of the county in which the criminal charges or revocation proceedings are pending.

(5) If the defendant is confined in a treatment facility, a copy of any report to the committing court regarding the defendant's progress toward recovery of mental competence shall be provided by the committing court to the prosecutor and to the defense counsel.

(d) With the exception of proceedings alleging a violation of mandatory supervision, the criminal action remains subject to dismissal pursuant to Section 1385. If the criminal action is dismissed, the court shall transmit a copy of the order of dismissal to the community program director or a designee. In a proceeding alleging a violation of mandatory supervision, if the person is not placed under a conservatorship as described in paragraph (3) of subdivision (c), or if a conservatorship is terminated, the court shall reinstate mandatory supervision and may modify the terms and conditions of supervision to include appropriate mental health treatment or refer the matter to a local mental health court, reentry court, or other collaborative justice court available for improving the mental health of the defendant.

(e) If the criminal action against the defendant is dismissed, the defendant shall be released from commitment ordered under this section, but without prejudice to the initiation of proceedings that may be appropriate under the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code).

(f) As used in this chapter, "community program director" means the person, agency, or entity designated by the State Department of State Hospitals pursuant to Section 1605 of this code and Section 4360 of the Welfare and Institutions Code.

(g) For the purpose of this section, "secure treatment facility" does not include, except for State Department of State Hospitals facilities, state developmental centers, and correctional treatment facilities, any facility licensed pursuant to Chapter 2 (commencing with Section 1250) of, Chapter 3 (commencing with Section 1500) of, or Chapter 3.2 (commencing with Section 1569) of, Division 2 of the Health and Safety Code, or any community board and care facility.

(h) This section does not preclude a defendant from filing a petition for habeas corpus to challenge the continuing validity of an order authorizing a treatment facility or outpatient program to involuntarily administer antipsychotic medication to a person being treated as incompetent to stand trial.

SEC. 10. Section 3003 of the Penal Code, as added by Section 2 of Chapter 826 of the Statutes of 2022, is amended to read:

3003. (a) Except as otherwise provided in this section, an inmate who is released on parole or postrelease community supervision as provided by Title 2.05 (commencing with Section 3450) shall be returned to the county that was the last legal residence of the inmate prior to the inmate's incarceration. An inmate who is released on parole or postrelease community

supervision as provided by Title 2.05 (commencing with Section 3450) and who was committed to prison for a sex offense for which registration is required pursuant to Section 290, shall, through all efforts reasonably possible, be returned to the city that was the last legal residence of the inmate prior to incarceration or a close geographic location in which the inmate has family, social ties, or economic ties and access to reentry services, unless return to that location would violate any other law or pose a risk to the inmate's victim. For purposes of this subdivision, "last legal residence" shall not be construed to mean the county or city wherein the inmate committed an offense while confined in a state prison or local jail facility or while confined for treatment in a state hospital.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county or city if that would be in the best interests of the public. When setting conditions of parole, if the Board of Parole Hearings, upon granting parole to a person, or the Department of Corrections and Rehabilitation decides on a return to another county or city, it shall place its reasons in writing in the parolee's permanent record and the reasons shall be included in the notice to the sheriff or chief of police pursuant to Section 3058.6. In making its decision, the paroling authority shall consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program chosen by the inmate in another county.

(4) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(5) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960 in the county of last legal residence.

(6) The existence of a housing option in another county, including with a relative or acceptance into a transitional housing program of choice.

(c) (1) The Department of Corrections and Rehabilitation, in determining an out-of-county commitment pursuant to this section, shall give priority to the safety of the community and any witnesses and victims.

(2) Absent evidence that parole transfer would present a threat to public safety, the inmate shall be released to the county in the location of a verified existence of a postsecondary educational or vocational training program of the inmate's choice, or of a verified existence of a work offer, the inmate's family, outpatient treatment, or housing. The burden of verifying the existence of an educational or vocational training program or a work offer shall be on the person on parole. The Department of Corrections and Rehabilitation shall complete the parole transfer process prior to release and ensure the person is released from prison directly to the county where the postsecondary educational or vocational training program chosen by the inmate, or the work offer, the inmate's family, outpatient treatment, or housing is located. This paragraph shall not apply to placement and participation in a transitional housing program during the first year after release pursuant to a condition of parole imposed by the Board of Parole Hearings upon granting parole at a hearing conducted under Article 3 (commencing with Section 3040).

(3) Absent evidence that travel outside of the county of commitment would present a threat to public safety, a person on parole shall be granted a permit to travel outside the county of commitment to a location where the person has postsecondary educational or vocational training program opportunities, including classes, conferences, or extracurricular educational activities, an employment opportunity, or inpatient or outpatient treatment. A parole agent shall provide a written response of their decision within 14 days after receiving the request for a travel permit. If the parole agent denies the request for an out-of-county travel permit, they shall include in writing the reasons the travel would present a threat to public safety.

(4) Absent evidence that transfer to a county outside the county of commitment would present a threat to public safety, a person on parole shall be granted approval of an application to transfer residency and parole to another county where the person has a verified existence of a postsecondary educational or vocational training program chosen by the inmate, or a verified existence of a work offer, the person's family, inpatient or outpatient treatment, or housing. The burden of verifying the existence of an educational or vocational training program or a work offer shall be on the person on parole. A parole agent shall provide a written response of their decision within 14 days after receiving the request for the transfer application. If the parole agent denies the application for a transfer of parole to another county, they shall include in writing the reasons the transfer would present a threat to public safety. This paragraph shall not apply to placement and participation in a transitional housing program during the first year after release pursuant to a condition of parole imposed by the Board of Parole Hearings upon granting parole at a hearing conducted under Article 3 (commencing with Section 3040).

(5) The department and probation officers may extend paragraphs (2) through (4), inclusive, to individuals released on postrelease community supervision. The Legislature finds and declares that the department and probation officers are strongly encouraged to apply this paragraph to individuals released on postrelease community supervision.

(d) In making its decision about an inmate who participated in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5, the paroling authority shall release the inmate to the county where the joint venture program employer is located if that employer states to the paroling authority that the employer intends to employ the inmate upon release.

(e) (1) The following information, if available, shall be released by the Department of Corrections and Rehabilitation to local law enforcement agencies regarding a paroled inmate or inmate placed on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) who is released in their jurisdictions:

(A) Last, first, and middle names.

(B) Birth date.

(C) Sex, race, height, weight, and hair and eye color.

(D) Date of parole or placement on postrelease community supervision and discharge.

(E) Registration status, if the inmate is required to register as a result of a controlled substance, sex, or arson offense.

(F) California Criminal Information Number, FBI number, social security number, and driver's license number.

(G) County of commitment.

(H) A description of scars, marks, and tattoos on the inmate.

(I) Offense or offenses for which the inmate was convicted that resulted in parole or postrelease community supervision in this instance.

(J) Address, including all of the following information:

(i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.

(ii) City and ZIP Code.

(iii) Date that the address provided pursuant to this subparagraph was proposed to be effective.

(K) Contact officer and unit, including all of the following information:

(i) Name and telephone number of each contact officer.

(ii) Contact unit type of each contact officer such as units responsible for parole, registration, or county probation.

(L) A digitized image of the photograph and at least a single digit fingerprint of the parolee.

(M) A geographic coordinate for the inmate's residence location for use with a Geographical Information System (GIS) or comparable computer program.

(2) Unless the information is unavailable, the Department of Corrections and Rehabilitation shall electronically transmit to the county agency identified in subdivision (a) of Section 3451 the inmate's tuberculosis status, specific medical, mental health, and outpatient clinic needs, and any medical concerns or disabilities for the county to consider as the offender transitions onto postrelease community supervision pursuant to Section 3450, for the purpose of identifying the medical and mental health needs of the individual. All transmissions to the county agency shall be in compliance with applicable provisions of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191), the federal Health Information Technology for Economic and Clinical Health Act (HITECH) (Public Law 111-005), and the implementing of privacy and security regulations in Parts 160 and 164 of Title 45 of the Code of Federal Regulations. This paragraph shall not take effect until the Secretary of the United States Department of Health and Human Services, or the secretary's designee, determines that this provision is not preempted by HIPAA.

(3) Except for the information required by paragraph (2), the information required by this subdivision shall come from the statewide parolee database. The information obtained from each source shall be based on the same timeframe.

(4) All of the information required by this subdivision shall be provided utilizing a computer-to-computer transfer in a format usable by a desktop computer system. The transfer of this information shall be continually available to local law enforcement agencies upon request.

(5) The unauthorized release or receipt of the information described in this subdivision is a violation of Section 11143.

(f) Notwithstanding any other law, if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of Parole Hearings or the Department of Corrections and Rehabilitation finds that there is a need to protect the life, safety, or well-being of the victim or witness, an inmate who is released on parole shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, any of the following crimes:

(1) A violent felony as defined in paragraphs (1) to (7), inclusive, and paragraphs (11) and (16) of subdivision (c) of Section 667.5.

(2) A felony in which the defendant inflicts great bodily injury on a person, other than an accomplice, that has been charged and proved as provided for in Section 12022.53, 12022.7, or 12022.9.

(3) A violation of paragraph (1), (3), or (4) of subdivision (a) of Section 261, subdivision (f), (g), or (i) of Section 286, subdivision (f), (g), or (i) of Section 287 or of former Section 288a, or subdivision (b), (d), or (e) of Section 289.

(g) Notwithstanding any other law, an inmate who is released on parole for a violation of Section 288 or 288.5 whom the Department of Corrections and Rehabilitation determines poses a high risk to the public shall not be placed or reside, for the duration of the inmate's parole, within one-half mile of a public or private school including any or all of kindergarten and grades 1 to 12, inclusive.

(h) Notwithstanding any other law, an inmate who is released on parole or postrelease community supervision for a stalking offense shall not be returned to a location within 35 miles of the victim's or witness' actual residence or place of employment if the victim or witness has requested additional distance in the placement of the inmate on parole or postrelease community supervision, and if the Board of Parole Hearings or the Department of Corrections and Rehabilitation, or the supervising county agency, as applicable, finds that there is a need to protect the life, safety, or well-being of the victim. If an inmate who is released on postrelease community supervision cannot be placed in the inmate's county of last legal residence in compliance with this subdivision, the supervising county agency may transfer the inmate to another county upon approval of the receiving county.

(i) The authority shall give consideration to the equitable distribution of parolees and the proportion of out-of-county commitments from a county compared to the number of commitments from that county when making parole decisions.

(j) An inmate may be paroled to another state pursuant to any other law. The Department of Corrections and Rehabilitation shall coordinate with local entities regarding the placement of inmates placed out of state on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450).

(k) (1) Except as provided in paragraph (2), the Department of Corrections and Rehabilitation shall be the agency primarily responsible for, and shall have control over, the program, resources, and staff implementing the Law Enforcement Automated Data System (LEADS) in conformance with subdivision (e). County agencies supervising inmates released to postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) shall provide any information requested by the department to ensure the availability of accurate information regarding inmates released from state prison. This information may include the issuance of warrants, revocations, or the termination of postrelease community supervision. On or before August 1, 2011, county agencies designated to supervise inmates released to postrelease community supervision shall notify the department that the county agencies have been designated as the local entity responsible for providing that supervision.

(2) Notwithstanding paragraph (1), the Department of Justice shall be the agency primarily responsible for the proper release of information under LEADS that relates to fingerprint cards.

(l) In addition to the requirements under subdivision (k), the Department of Corrections and Rehabilitation shall submit to the Department of Justice data to be included in the supervised release file of the California Law Enforcement Telecommunications System (CLETS) so that law enforcement can be advised through CLETS of all persons on postrelease community supervision and the county agency designated to provide supervision. The data required by this subdivision shall be provided via electronic transfer.

(m) This section shall become operative on January 1, 2024.

SEC. 11. Section 3040 of the Penal Code is amended to read:

3040. The Board of Parole Hearings shall have the power to allow prisoners imprisoned in the state prisons pursuant to subdivision (b) of Section 1168 to go upon parole outside the prison walls and enclosures. The board may parole prisoners in the state prisons to camps for paroled prisoners established under Section 2792.

SEC. 12. Section 3042 of the Penal Code is amended to read:

3042. (a) (1) At least 30 days before the Board of Parole Hearings meets to review or consider the parole suitability of any inmate sentenced to a life sentence, the board shall send written notice thereof to each of the following persons: the attorney who represented the defendant at trial, the district attorney of the county in which the offense was committed, the law enforcement agency that investigated the case, and, if the inmate was convicted of the murder of a peace officer, the law enforcement agency that employed the peace officer at the time of the murder.

(2) If the inmate was convicted of the murder of a firefighter, the board or the Department of Corrections and Rehabilitation shall also send the written notice described in paragraph (1) to the fire department that employed the firefighter at the time of the murder, if that fire department registers with the board to receive that notification and provides the appropriate contact information.

(b) The Board of Parole Hearings shall record all of those hearings and transcribe recordings of those hearings within 30 days of any hearing. Those transcripts, including the transcripts of all prior hearings, shall be filed and maintained in the office of the Board of Parole Hearings and shall be made available to the public no later than 30 days from the date of the hearing. An inmate shall not be released on parole until 60 days from the date of the hearing have elapsed.

(c) At any hearing, the presiding hearing officer shall state their findings and supporting reasons on the record.

(d) Any statements, recommendations, or other materials considered shall be incorporated into the transcript of the hearing, unless the material is confidential in order to preserve institutional security and the security of others who might be endangered by disclosure.

(e) The board shall review and consider all relevant and reliable information received from any person and shall consider imposing special conditions of parole to reflect the comments or concerns raised by this information, as appropriate.

(f) This section does not limit the type or content of information any person may forward to the board for consideration under any other law.

(g) Any person who receives notice under subdivision (a) who is authorized to forward information for consideration in a parole consideration hearing for a person sentenced to a life sentence under this section, may forward that information by electronic mail. The Department of Corrections and Rehabilitation shall establish procedures for receiving the information by electronic mail pursuant to this subdivision.

SEC. 13. Section 3053 of the Penal Code is amended to read:

3053. (a) The Board of Parole Hearings upon granting any parole to any prisoner may also impose on the parole any conditions that it may deem proper.

(b) The Board of Parole Hearings may impose as a condition of parole that any prisoner granted parole undergo an examination or test for tuberculosis when the board reasonably suspects that the parolee has, has had, or has been exposed to, tuberculosis in an infectious stage.

(c) For purposes of this section, an "examination or test for tuberculosis" means testing and followup examinations or treatment according to the Centers for Disease Control and American Thoracic Society recommendations in effect at the time of the initial examination.

SEC. 14. Section 3053.5 of the Penal Code is amended to read:

3053.5. Upon granting parole to any prisoner convicted of any of the offenses enumerated in Section 290, the Board of Parole Hearings shall inquire into the question whether the defendant at the time the offense was committed was intoxicated or addicted to the excessive use of alcoholic liquor or beverages at that time or immediately prior thereto, and if it is found that the person was so intoxicated or so addicted, it shall impose as a condition of parole that such prisoner shall totally abstain from the use of alcoholic liquor or beverages.

SEC. 15. Section 3055 of the Penal Code is amended to read:

3055. (a) The Elderly Parole Program is hereby established, to be administered by the Board of Parole Hearings, for purposes of reviewing the parole suitability of any inmate who is 50 years of age or older and has served a minimum of 20 years of continuous incarceration on the inmate's current sentence, serving either a determinate or indeterminate sentence.

(b) (1) For purposes of this code, the term "elderly parole eligible date" means the date on which an inmate who qualifies as an elderly offender is eligible for release from prison.

(2) For purposes of this section, "incarceration" means detention in a city or county jail, local juvenile facility, a mental health facility, a Division of Juvenile Justice facility, or a Department of Corrections and Rehabilitation facility.

(c) When considering the release of an inmate specified by subdivision (a) pursuant to Section 3041, the board shall give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence.

(d) When scheduling a parole consideration hearing date pursuant to subdivision (b) of Section 3041.5 or when considering a request for an advance hearing pursuant to subdivision (d) of Section 3041.5, the board shall consider whether the inmate meets or will meet the criteria specified in subdivision (a).

(e) An individual who is subject to this section shall meet with the board pursuant to subdivision (a) of Section 3041. If an inmate is found suitable for parole under the Elderly Parole Program, the board shall release the individual on parole as provided in Section 3041.

(f) If parole is not granted, the board shall set the time for a subsequent elderly parole hearing in accordance with paragraph (3) of subdivision (b) of Section 3041.5. No subsequent elderly parole hearing shall be necessary if the offender is released pursuant to other statutory provisions prior to the date of the subsequent hearing.

(g) This section does not apply to cases in which sentencing occurs pursuant to Section 1170.12, subdivisions (b) to (i), inclusive, of Section 667, or in cases which an individual was sentenced to life in prison without the possibility of parole or death.

(h) This section does not apply if the person was convicted of first-degree murder if the victim was a peace officer, as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.4, 830.5, 830.6, 830.10, 830.11, or 830.12, who was killed while engaged in the performance of their duties, and the individual knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of their duties, or the victim was a peace officer or a former peace officer under any of the above-enumerated sections, and was intentionally killed in retaliation for the performance of their official duties.

(i) This section does not alter the rights of victims at parole hearings.

(j) By December 31, 2022, the board shall complete all elderly parole hearings for individuals who were sentenced to determinate or indeterminate terms and who, on the effective date of the bill that added this subdivision, are or will be entitled to have their parole suitability considered at an elderly parole hearing before January 1, 2023.

SEC. 16. Section 3058.6 of the Penal Code is amended to read:

3058.6. (a) Whenever any person confined to state prison is serving a term for the conviction of a violent felony listed in subdivision (c) of Section 667.5, the Department of Corrections and Rehabilitation, with respect to inmates sentenced pursuant to subdivision (b) of Section 1168 or pursuant to Section 1170, shall notify the sheriff or chief of police, or both, and the district attorney, who has jurisdiction over the community in which the person was convicted and, in addition, the sheriff or chief of police, or both, and the district attorney, having jurisdiction over the community in which the person is scheduled to be released on parole or rereleased following a period of confinement pursuant to a parole revocation without a new commitment.

(b) (1) The notification shall be made by mail at least 60 days prior to the scheduled release date, except as provided in paragraph (3). In all cases, the notification shall include the name of the person who is scheduled to be released, whether or not the person is required to register with local law enforcement, and the community in which the person will reside. The notification shall specify the office within the Department of Corrections and Rehabilitation with the authority to make final determination and adjustments regarding parole location decisions.

(2) Notwithstanding any other provision of law, the Department of Corrections and Rehabilitation shall not restore credits nor take any administrative action resulting in an inmate being placed in a greater credit earning category that would result in notification being provided less than 60 days prior to an inmate's scheduled release date.

(3) When notification cannot be provided at least 60 days prior to release due to the unanticipated release date change of an inmate as a result of an order from the court, an action by the Board of Parole Hearings, the granting of an administrative appeal, or a finding of not guilty or dismissal of a disciplinary action, that affects the sentence of the inmate, or due to a modification of the department's decision regarding the community into which the person is scheduled to be released pursuant to paragraph (4), the department shall provide notification as soon as practicable, but in no case shall the department delay making the notification more than 24 hours from the time the final decision is made regarding where the parolee will be released.

(4) Those agencies receiving the notice referred to in this subdivision may provide written comment to the board or department regarding the impending release. Agencies that choose to provide written comments shall respond within 45 days prior to the

inmate's scheduled release, unless an agency received less than 60 days' notice of the impending release, in which case the agency shall respond as soon as practicable prior to the scheduled release. Those comments shall be considered by the board or department which may, based on those comments, modify its decision regarding the community in which the person is scheduled to be released. The Department of Corrections and Rehabilitation shall respond in writing not less than 15 days prior to the scheduled release with a final determination as to whether to adjust the parole location and documenting the basis for its decision, unless the department received comments less than 45 days prior to the impending release, in which case the department shall respond as soon as practicable and prior to the scheduled release. The comments shall become a part of the inmate's file.

(c) If the court orders the immediate release of an inmate, the department shall notify the sheriff or chief of police, or both, and the district attorney, having jurisdiction over the community in which the person was convicted and, in addition, the sheriff or chief of police, or both, and the district attorney, having jurisdiction over the community in which the person is scheduled to be released on parole at the time of release.

(d) (1) The notification required by this section shall be made whether or not a request has been made under Section 3058.5.

(2) In no case shall notice required by this section to the appropriate agency be later than the day of release on parole. If, after the 60-day notice is given to law enforcement and to the district attorney relating to an out-of-county placement, there is a change of county placement, notice to the ultimate county of placement shall be made upon the determination of the county of placement.

SEC. 17. Section 3058.65 of the Penal Code is amended to read:

3058.65. (a) (1) Whenever any person confined in the state prison is serving a term for the conviction of child abuse, pursuant to Section 273a, 273ab, 273d, any sex offense specified as being perpetrated against a minor, or an act of domestic violence, or as ordered by a court, the Department of Corrections and Rehabilitation, with respect to inmates sentenced pursuant to subdivision (b) of Section 1168 or pursuant to Section 1170, shall notify the following parties that the person is scheduled to be released on parole, or rereleased following a period of confinement pursuant to a parole revocation without a new commitment, as specified in subdivision (b):

(A) The immediate family of the parolee who requests notification and provides the department with a current address.

(B) A county child welfare services agency that requests notification pursuant to Section 16507 of the Welfare and Institutions Code.

(2) For the purposes of this paragraph, "immediate family of the parolee" means the parents, siblings, and spouse of the parolee.

(b) (1) The notification shall be made by mail at least 60 days prior to the scheduled release date, except as provided in paragraph (2). In all cases, the notification shall include the name of the person who is scheduled to be released, the terms of that person's parole, whether or not that person is required to register with local law enforcement, and the community in which that person will reside. The notification shall specify the office within the Department of Corrections that has the authority to make the final determination and adjustments regarding parole location decisions.

(2) When notification cannot be provided within the 60 days due to the unanticipated release date change of an inmate as a result of an order from the court, an action by the Board of Prison Terms, the granting of an administrative appeal, or a finding of not guilty or dismissal of a disciplinary action, that affects the sentence of the inmate, or due to a modification of the department's decision regarding the community into which the person is scheduled to be released pursuant to paragraph (3), the department shall provide notification to the parties and agencies specified in subdivision (a) as soon as practicable, but in no case less than 24 hours after the final decision is made regarding the location where the parolee will be released.

(3) Those agencies receiving the notice referred to in this subdivision may provide written comment to the board or department regarding the impending release. Agencies that choose to provide written comments shall respond within 30 days prior to the inmate's scheduled release, unless an agency received less than 60 days' notice of the impending release, in which case the agency shall respond as soon as practicable prior to the scheduled release. Those comments shall be considered by the board or department which may, based on those comments, modify its decision regarding the community in which the person is scheduled to be released. The board or department shall respond in writing not less than 15 days prior to the scheduled release with a final determination as to whether to adjust the parole location and documenting the basis for its decision, unless the department received comments less than 30 days prior to the impending release, in which case the department shall respond as soon as practicable prior to the scheduled release. The comments shall become a part of the inmate's file.

(c) In no case shall the notice required by this section be later than the day the person is released on parole.

SEC. 18. Section 3058.9 of the Penal Code is amended to read:

3058.9. (a) Whenever any person confined to state prison is serving a term for the conviction of child abuse pursuant to Section 273a, 273ab, 273d, or any sex offense identified in statute as being perpetrated against a minor victim, or as ordered by any court, the Department of Corrections and Rehabilitation, with respect to inmates sentenced pursuant to subdivision (b) of Section 1168 or pursuant to Section 1170, shall notify the sheriff or chief of police, or both, and the district attorney, having jurisdiction over the community in which the person was convicted and, in addition, the sheriff or chief of police, or both, and the district attorney having jurisdiction over the community in which the person is scheduled to be released on parole or rereleased following a period of confinement pursuant to a parole revocation without a new commitment.

(b) (1) The notification shall be made by mail at least 45 days prior to the scheduled release date, except as provided in paragraph (3). In all cases, the notification shall include the name of the person who is scheduled to be released, whether or not the person is required to register with local law enforcement, and the community in which the person will reside. The notification shall specify the office within the Department of Corrections with the authority to make final determination and adjustments regarding parole location decisions.

(2) Notwithstanding any other provision of law, the Department of Corrections shall not restore credits nor take any administrative action resulting in an inmate being placed in a greater credit earning category that would result in notification being provided less than 45 days prior to an inmate's scheduled release date.

(3) When notification cannot be provided within the 45 days due to the unanticipated release date change of an inmate as a result of an order from the court, an action by the Board of Parole Hearings, the granting of an administrative appeal, or a finding of not guilty or dismissal of a disciplinary action, that affects the sentence of the inmate, or due to a modification of the department's decision regarding the community into which the person is scheduled to be released pursuant to paragraph (4), the department shall provide notification as soon as practicable, but in no case less than 24 hours after the final decision is made regarding where the parolee will be released.

(4) Those agencies receiving the notice referred to in this subdivision may provide written comment to the board or department regarding the impending release. Agencies that choose to provide written comments shall respond within 30 days prior to the inmate's scheduled release, unless an agency received less than 45 days' notice of the impending release, in which case the agency shall respond as soon as practicable prior to the scheduled release. Those comments shall be considered by the board or department, which may, based on those comments, modify its decision regarding the community in which the person is scheduled to be released. The Department of Corrections shall respond in writing not less than 15 days prior to the scheduled release with a final determination as to whether to adjust the parole location and documenting the basis for its decision, unless the department received comments less than 30 days prior to the impending release, in which case the department shall respond as soon as practicable prior to the scheduled release. The comments shall become a part of the inmate's file.

(c) If the court orders the immediate release of an inmate, the department shall notify the sheriff or chief of police, or both, and the district attorney, having jurisdiction over the community in which the person was convicted and, in addition, the sheriff or chief of police, or both, and the district attorney, having jurisdiction over the community in which the person is scheduled to be released on parole or released following a period of confinement pursuant to a parole revocation without a new commitment.

(d) The notification required by this section shall be made whether or not a request has been made under Section 3058.5.

In no case shall notice required by this section to the appropriate agency be later than the day of release on parole. If, after the 45-day notice is given to law enforcement and to the district attorney relating to an out-of-county placement, there is change of county placement, notice to the ultimate county of placement shall be made upon the determination of the county of placement.

(e) The notice required by this section shall satisfy the notice required by Section 3058.6 for any person whose offense is identified in both sections.

SEC. 19. Section 3066 of the Penal Code is amended to read:

3066. Notwithstanding Section 11425.10 of the Government Code, Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to a parole hearing or other adjudication concerning rights of an inmate or parolee conducted by the Department of Corrections and Rehabilitation or the Board of Parole Hearings.

SEC. 20. Section 4019 of the Penal Code, as amended by Section 3 of Chapter 756 of the Statutes of 2022, is amended to read:

4019. (a) This section applies in all of the following cases:

(1) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp, including all days of custody from the date of arrest to the date when the sentence commences, under a judgment of imprisonment or of a fine and imprisonment until the fine is paid in a criminal action or proceeding.

(2) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp as a condition of probation after suspension of imposition of a sentence or suspension of execution of sentence in a criminal action or proceeding.

(3) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp for a definite period of time for contempt pursuant to a proceeding other than a criminal action or proceeding.

(4) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp following arrest and prior to the imposition of sentence for a felony conviction.

(5) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp as part of custodial sanction imposed following a violation of postrelease community supervision or parole.

(6) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp as a result of a sentence imposed pursuant to subdivision (h) of Section 1170.

(7) When a prisoner participates in a program pursuant to Section 1203.016 or Section 4024.2. Except for prisoners who have already been deemed eligible to receive credits for participation in a program pursuant to Section 1203.016 prior to January 1, 2015, this paragraph shall apply prospectively.

(8) When a prisoner is confined in or committed to a state hospital or other mental health treatment facility, or to a county jail treatment facility, in proceedings pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2.

(b) Subject to subdivision (d), for each four-day period in which a prisoner is confined in or committed to a facility as specified in this section, one day shall be deducted from the prisoner's period of confinement unless it appears by the record that the prisoner has refused to satisfactorily perform labor as assigned by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(c) For each four-day period in which a prisoner is confined in or committed to a facility as specified in this section, one day shall be deducted from the prisoner's period of confinement unless it appears by the record that the prisoner has not satisfactorily complied with the reasonable rules and regulations established by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(d) This section does not require the sheriff, chief of police, or superintendent of an industrial farm or road camp to assign labor to a prisoner if it appears from the record that the prisoner has refused to satisfactorily perform labor as assigned or that the prisoner has not satisfactorily complied with the reasonable rules and regulations of the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(e) A deduction shall not be made under this section unless the person is committed for a period of four days or longer.

(f) It is the intent of the Legislature that if all days are earned under this section, a term of four days will be deemed to have been served for every two days spent in actual custody.

(g) The changes in this section as enacted by the act that added this subdivision shall apply to prisoners who are confined to a county jail, city jail, industrial farm, or road camp for a crime committed on or after the effective date of that act.

(h) The changes to this section enacted by the act that added this subdivision shall apply prospectively and shall apply to prisoners who are confined to a county jail, city jail, industrial farm, or road camp for a crime committed on or after October 1, 2011. Any days earned by a prisoner prior to October 1, 2011, shall be calculated at the rate required by the prior law.

(i) (1) This section shall not apply, and no credits may be earned, for periods of flash incarceration imposed pursuant to Section 3000.08 or 3454.

(2) Credits earned pursuant to this section for a period of flash incarceration pursuant to Section 1203.35 shall, if the person's probation or mandatory supervision is revoked, count towards the term to be served.

(j) This section shall remain in effect only until January 1, 2028, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2028, deletes or extends that date.

SEC. 21. Section 4019 of the Penal Code, as amended by Section 4 of Chapter 756 of the Statutes of 2022, is amended to read:

4019. (a) This section applies in all of the following cases:

(1) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp, including all days of custody from the date of arrest to the date when the sentence commences, under a judgment of imprisonment or of a fine and imprisonment until the fine is paid in a criminal action or proceeding.

(2) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp as a condition of probation after suspension of imposition of a sentence or suspension of execution of sentence in a criminal action or proceeding.

(3) When a prisoner is confined in or committed to a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp for a definite period of time for contempt pursuant to a proceeding other than a criminal action or proceeding.

(4) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp following arrest and prior to the imposition of sentence for a felony conviction.

(5) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp as part of custodial sanction imposed following a violation of postrelease community supervision or parole.

(6) When a prisoner is confined in a county jail, industrial farm, or road camp or a city jail, industrial farm, or road camp as a result of a sentence imposed pursuant to subdivision (h) of Section 1170.

(7) When a prisoner participates in a program pursuant to Section 1203.016 or Section 4024.2. Except for prisoners who have already been deemed eligible to receive credits for participation in a program pursuant to Section 1203.016 prior to January 1, 2015, this paragraph shall apply prospectively.

(8) When a prisoner is confined in or committed to a state hospital or other mental health treatment facility, or to a county jail treatment facility in proceedings pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2.

(b) Subject to subdivision (d), for each four-day period in which a prisoner is confined in or committed to a facility as specified in this section, one day shall be deducted from the prisoner's period of confinement unless it appears by the record that the prisoner has refused to satisfactorily perform labor as assigned by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(c) For each four-day period in which a prisoner is confined in or committed to a facility as specified in this section, one day shall be deducted from the prisoner's period of confinement unless it appears by the record that the prisoner has not satisfactorily complied with the reasonable rules and regulations established by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(d) This section does not require the sheriff, chief of police, or superintendent of an industrial farm or road camp to assign labor to a prisoner if it appears from the record that the prisoner has refused to satisfactorily perform labor as assigned or that the prisoner has not satisfactorily complied with the reasonable rules and regulations of the sheriff, chief of police, or superintendent of an industrial farm or road camp.

(e) A deduction shall not be made under this section unless the person is committed for a period of four days or longer.

(f) It is the intent of the Legislature that if all days are earned under this section, a term of four days will be deemed to have been served for every two days spent in actual custody.

(g) The changes in this section as enacted by the act that added this subdivision shall apply to prisoners who are confined to a county jail, city jail, industrial farm, or road camp for a crime committed on or after the effective date of that act.

(h) The changes to this section enacted by the act that added this subdivision shall apply prospectively and shall apply to prisoners who are confined to a county jail, city jail, industrial farm, or road camp for a crime committed on or after October 1, 2011. Any days earned by a prisoner prior to October 1, 2011, shall be calculated at the rate required by the prior law.

(i) This section shall not apply, and no credits may be earned, for periods of flash incarceration imposed pursuant to Section 3000.08 or 3454.

(j) This section shall become operative on January 1, 2028.

SEC. 22. Section 6141 of the Penal Code is amended to read:

6141. The California Rehabilitation Oversight Board shall meet at least twice annually, and shall regularly examine the various mental health, substance abuse, educational, and employment programs for incarcerated persons and parolees operated by the Department of Corrections and Rehabilitation. The board shall examine the department's effort to assist incarcerated persons and

parolees to obtain postrelease health care coverage. The board shall also examine efforts to address the housing needs of incarcerated persons, including those who are identified as having serious mental health needs, who are released to the community as parolees. The board shall report to the Governor and the Legislature annually, on October 15, and may submit other reports during the year if it finds they are necessary. The reports shall include, but are not limited to, findings on the effectiveness of treatment efforts, rehabilitation needs of incarcerated persons, gaps in rehabilitation services in the department, levels of incarcerated person participation and success in the programs, data indicating the number of parolees who are experiencing homelessness, and the number of those parolees experiencing homelessness who have previously been identified as having serious mental health needs. The board shall also make recommendations to the Governor and the Legislature with respect to modifications, additions, and eliminations of rehabilitation and treatment programs. In performing its duties, the board shall use the work products developed for the department as a result of the provisions of the 2006 Budget Act, including Provision 18 of Item 5225-001-0001.

SEC. 23. Section 29805 of the Penal Code is amended to read:

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

(2) Any person who has an outstanding warrant for any misdemeanor offense described in this subdivision, and who has knowledge of the outstanding warrant, and who owns, purchases, receives, or has in possession or under custody or control any firearm is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

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

(c) Any person who is convicted on or after January 1, 2020, of a misdemeanor violation of Section 25100, 25135, or 25200, and who, within 10 years of the conviction owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(d) Any person who is convicted on or after January 1, 2023, of a misdemeanor violation of Section 273a, subdivision (b) or (c) of Section 368, or subdivision (e) or (f) of Section 29180, and who, within 10 years of the conviction owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

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

SEC. 24. Section 30400 of the Penal Code is amended to read:

30400. (a) Except as provided in subdivision (b) and in Section 30420, or except by operation of law, it shall be unlawful for a person to purchase, sell, offer to sell, or transfer ownership of any firearm precursor part in this state that is not a federally regulated firearm precursor part.

(b) This section does not apply to either of the following:

(1) The purchase of a firearm precursor part that is not a federally regulated firearm precursor part by a federally licensed firearms manufacturer or importer, or by a federal licensee authorized to serialize firearms.

(2) The sale, offer to sell, or transfer of ownership of a firearm precursor part that is not a federally regulated firearm precursor part to a federally licensed firearms manufacturer or importer, or to a federal licensee authorized to serialize firearms.

(c) A violation of this section is a misdemeanor punishable by imprisonment in a county jail not exceeding six months, by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

SEC. 25. Section 12801.9 of the Vehicle Code is amended to read:

12801.9. (a) (1) Notwithstanding Section 12801.5, the department shall issue an original driver's license to a person who is unable to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law if the person meets all other qualifications for licensure and provides satisfactory proof to the department of the person's identity and California residency.

(2) Notwithstanding Section 12801.5 and commencing no later than July 1, 2027, the department shall issue an identification card to a person who is unable to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law if the person provides satisfactory proof to the department of the person's identity and California residency.

(b) The department shall adopt regulations to carry out the purposes of this section, including, but not limited to, procedures for (1) identifying documents acceptable for the purposes of proving identity and California residency, (2) procedures for verifying the authenticity of the documents, (3) issuance of a temporary license pending verification of any document's authenticity, and (4) hearings to appeal a denial of a license or temporary license, or identification card.

(c) Regulations adopted for purposes of establishing the documents acceptable to prove identity and residency pursuant to subdivision (b) shall be promulgated by the department in consultation with appropriate interested parties, in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), including law enforcement representatives, immigrant rights representatives, labor representatives, and other stakeholders, which may include, but are not limited to, the Department of the California Highway Patrol, the California State Sheriffs' Association, and the California Police Chiefs Association. The department shall accept various types of documentation for this purpose, including, but not limited to, the following documents:

(1) A valid, unexpired consular identification document issued by a consulate from the applicant's country of citizenship, or a valid, unexpired passport from the applicant's country of citizenship.

(2) An original birth certificate, or other proof of age, as designated by the department.

(3) A home utility bill, lease or rental agreement, or other proof of California residence, as designated by the department.

(4) The following documents, which, if in a language other than English, shall be accompanied by a certified translation or an affidavit of translation into English:

(A) A marriage license or divorce certificate.

(B) A foreign federal electoral photo card issued on or after January 1, 1991.

(C) A foreign driver's license.

(5) A United States Department of Homeland Security Form I-589, Application for Asylum and for Withholding of Removal.

(6) An official school or college transcript that includes the applicant's date of birth or a foreign school record that is sealed and includes a photograph of the applicant at the age the record was issued.

(7) A United States Department of Homeland Security Form I-20 or Form DS-2019.

(8) A deed or title to real property.

(9) A property tax bill or statement issued within the previous 12 months.

(10) An income tax return.

(d) (1) (A) A license issued pursuant to this section shall bear the following notice: "This card is not acceptable for official federal purposes. This license is issued only as a license to drive a motor vehicle. It does not establish eligibility for employment, voter registration, or public benefits."

(B) An identification card issued pursuant to this section shall bear the following notice: "This card is not acceptable for official federal purposes. This identification card is issued only as a means of identification. It does not establish eligibility for employment, voter registration, or public benefits."

(2) The notice described in paragraph (1) shall be in lieu of the notice provided in Section 12800.5.

(3) Paragraphs (1) and (2) shall become inoperative upon the department's next scheduled revision of the driver's license or identification card on or after January 1, 2023, at which time, a driver's license and identification card issued pursuant to this section shall bear the notice described in Section 12800.5 or 13005.5, respectively, as added by the act that added this paragraph.

(e) Notwithstanding Section 40300 or any other law, a peace officer shall not detain or arrest a person solely on the belief that the person is an unlicensed driver, unless the officer has reasonable cause to believe the person driving is under 16 years of age.

(f) The inability to obtain a driver's license pursuant to this section does not abrogate or diminish in any respect the legal requirement of every driver in this state to obey the motor vehicle laws of this state, including laws with respect to licensing, motor vehicle registration, and financial responsibility.

(g) It is a violation of law to discriminate against a person because the person holds or presents a license or identification card issued under this section, including, but not limited to, the following:

(1) It is a violation of the Unruh Civil Rights Act (Section 51 of the Civil Code), for a business establishment to discriminate against a person because the person holds or presents a license or identification card issued under this section.

(2) (A) It is a violation of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code) for an employer or other covered person or entity, pursuant to Section 12940 of the Government Code and subdivision (v) of Section 12926 of the Government Code, to discriminate against a person because the person holds or presents a driver's license or identification card issued pursuant to this section, or for an employer or other covered entity to require a person to present a driver's license, unless possessing a driver's license is required by law or is required by the employer and the employer's requirement is otherwise permitted by law. This section shall not be construed to limit or expand an employer's authority to require a person to possess a driver's license.

(B) Notwithstanding subparagraph (A), this section shall not be construed to alter an employer's rights or obligations under Section 1324a of Title 8 of the United States Code regarding obtaining documentation evidencing identity and authorization for employment. An action taken by an employer that is required by the federal Immigration and Nationality Act (8 U.S.C. Sec. 1324a) is not a violation of law.

(3) It is a violation of Section 11135 of the Government Code for a state or local governmental authority, agent, or person acting on behalf of a state or local governmental authority, or a program or activity that is funded directly or receives financial assistance from the state, to discriminate against an individual because the individual holds or presents a license or identification card issued pursuant to this section, including by notifying a law enforcement agency of the individual's identity or that the individual carries a license or identification card issued under this section if a notification is not required by law or would not have been provided if the individual held a license issued pursuant to Section 12801 or an identification card issued pursuant to Section 13000.

(h) Driver's license or identification card information obtained by an employer shall be treated as private and confidential, is exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and shall not be disclosed to any unauthorized person or used for any purpose other than to establish identity and authorization to drive, as applicable.

(i) Information collected pursuant to this section is not a public record and shall not be disclosed by the department, except as required by law.

(j) Documents provided by applicants to prove identity or residency pursuant to this section are not public records and shall not be disclosed except in response to a subpoena for individual records in a criminal proceeding or a court order, or in response to a law enforcement request to address an urgent health or safety need if the law enforcement agency certifies in writing the specific circumstances that do not permit authorities time to obtain a court order. Immigration enforcement, as defined in Section 7284.4 of the Government Code, does not constitute an urgent health and safety need for purposes of this subdivision.

(k) A license or identification card issued pursuant to this section shall not be used as evidence of an individual's citizenship or immigration status for any purpose.

(l) In addition to the fees required by Section 14902, a person applying for an identification card pursuant to this section may be required to pay an additional fee determined by the department that is sufficient to offset the reasonable administrative costs of implementing the provisions of the act that authorized the issuance of identification cards pursuant to this section. If this additional fee is assessed, it shall only apply until June 30, 2030.

(m) This section shall become inoperative on the effective date of a final judicial determination made by any court of appellate jurisdiction that any provision of the act that added this section, or its application, either in whole or in part, is enjoined, found

unconstitutional, or held invalid for any reason. The department shall post this information on its internet website.

SEC. 26. Section 628.2 of the Welfare and Institutions Code is amended to read:

628.2. (a) As used in this section, the following definitions shall apply:

(1) "Minor" means a person under the jurisdiction of the juvenile court pursuant to Section 602.

(2) "Electronic monitoring" means technology used to identify, track, record, or otherwise monitor a minor's location or movement through electronic means.

(b) Electronic monitoring devices shall not be used to converse with a minor or to eavesdrop or record any conversation.

(c) A minor shall be entitled to have one day credited against the minor's maximum term of confinement for each day, or fraction thereof, that the minor serves on electronic monitoring. The provision of custody credits pursuant to this subdivision shall apply to custody credits earned beginning January 1, 2023.

(d) If electronic monitoring is imposed for a period greater than 30 days, the court shall hold a hearing no less than once every 30 days to ensure that the minor does not remain on electronic monitoring for an unreasonable length of time. In determining whether a length of time is unreasonable, the court shall consider whether there are less restrictive conditions of release that would achieve the rehabilitative purpose of the juvenile court. If less restrictive conditions of release are warranted, the court shall order removal of the electronic monitor or modify the terms of the electronic monitoring order to achieve the less restrictive alternative.

(e) The Department of Justice shall collect data regarding the use of electronic monitoring, as specified in Section 13012.4 of the Penal Code.

SEC. 27. Section 727.13 of the Welfare and Institutions Code is amended to read:

727.13. (a) (1) Whenever voluntary admission into a psychiatric residential treatment facility is sought for a minor or nonminor dependent who is subject to a petition pursuant to Section 601 or 602, the court shall review the application for a voluntary admission as described in this section. A minor may not be admitted for inpatient treatment prior to court authorization unless the minor is subject to an involuntary hold pursuant to Chapter 2 (commencing with Section 5585.50) of Part 1.5 of Division 5.

(2) For purposes of this section, "voluntary admission" for a child within the custody of a parent, guardian, or Indian custodian refers to the parent, guardian, or Indian custodian's voluntary decision to have the child admitted to a psychiatric residential treatment facility. "Voluntary admission" for a child not within the custody of a parent, guardian, or Indian custodian refers to the child's decision to voluntarily admit themselves pursuant to Section 6552. "Voluntary admission" for a nonminor dependent refers to the nonminor dependent's decision to voluntarily admit themselves.

(b) (1) When a parent, guardian, or Indian custodian who retains physical custody of a minor under the jurisdiction of the juvenile court pursuant to Section 601 or 602 seeks to have a minor admitted to a psychiatric residential treatment facility, or when a minor who is the subject of a petition pursuant to Section 601 or 602 seeks to make a voluntary admission to a psychiatric residential treatment facility, the probation officer shall file an ex parte application for an order authorizing the voluntary admission pursuant to Section 6552 within 48 hours of being informed of the request or, if the courts are closed for more than 48 hours after being informed of the request, on the first judicial day after being informed of the request. The application shall satisfy the requirements of Title 3 of the California Rules of Court, and include all of the following:

(A) A brief description of the minor mental disorder.

(B) The name of the psychiatric residential treatment facility proposed for treatment.

(C) A brief description of how the mental disorder may reasonably be expected to be cured or ameliorated by the course of treatment offered by the psychiatric residential treatment facility.

(D) A brief description of why the facility is the least restrictive setting for care and why there are no other available hospitals, programs, or facilities which might better serve the minor's medical needs and best interest.

(E) A copy of the plan required by subdivisions (c) and (d) of Section 16010.10.

(F) (i) If the parent, guardian, or Indian custodian is seeking the minor's admission to the facility, the basis of their belief that the minor's admission to a psychiatric residential treatment facility is necessary.

(ii) If the minor is seeking admission, whether the parent, guardian, or Indian custodian agrees with the minor request for admission.

(G) A description of any mental health services, including community-based mental health services, that were offered or provided and an explanation for why those services were not sufficient, or an explanation for why no such services were offered or provided.

(H) A statement describing how the minor was given the opportunity to confer privately with their counsel regarding the application.

(I) A brief description of whether any member of the minor's child and family team, if applicable, objects to the admission, and the reasons for the objection, if any.

(J) The information required by this paragraph shall be sufficient to satisfy the applicant's initial burden of establishing the need for an ex parte hearing required by subdivision (c) of Rule 3.1202 of the California Rules of Court.

(2) Upon receipt of an ex parte application pursuant to paragraph (1), the juvenile court shall schedule a hearing for the next judicial day. The court clerk shall immediately notify the probation officer and the minor's counsel of the date, time, and place for the hearing.

(3) The probation officer shall provide notice of the hearing in accordance with Title 3 of the California Rules of Court to the minor and their counsel of record, the minor's parents or guardian, the minor's tribe in the case of an Indian child, and any person designated as the minor's educational or developmental representative pursuant to subdivision (b) of Section 726. The provisions in subdivision (c) of Section 527 of the Code of Civil Procedure shall apply to notice of the hearing. The probation officer shall make arrangements for the minor to be transported to the hearing.

(c) (1) At the hearing, the court shall consider evidence in the form of oral testimony under oath, affidavit, or declaration, or other admissible evidence, including a probation department court report, as to all of the following:

(A) Whether the minor suffers from a mental disorder which may reasonably be expected to be cured or ameliorated by a course of treatment offered by the psychiatric residential treatment facility in which the minor wishes to be placed.

(B) Whether the psychiatric residential treatment facility is the least restrictive setting for care.

(C) Whether there is any other available hospital, program, or facility which might better serve the minor's medical needs and best interest, including less restrictive facilities or community-based care.

(D) Whether and how the minor, parent, or legal guardian, as appropriate, has been advised of the nature of inpatient psychiatric services, patient's rights as identified in Section 6006, and their right to contact a patients' rights advocate.

(E) Whether and how the probation officer addressed the possible voluntary admission with the minor's attorney.

(F) Whether the minor was given the opportunity to confer privately with their attorney while considering a voluntary admission.

(G) Whether and how the possible voluntary admission was addressed with the child and family team, whether any member of the team objects to voluntary admission, and the reasons for the objection.

(H) The probation department's plan for the minor, as described in Section 16010.10.

(I) A brief description of any community-based mental health services that were offered or provided, or an explanation for why no such services were offered or provided.

(2) (A) If the minor's parent, guardian, or Indian custodian seeks to give voluntary consent to the child's admission, the court shall inquire about the child's position on the admission.

(B) If the minor seeks to give voluntary consent to admission, the court shall inquire of the minor whether they knowingly and intelligently consent to admission into the psychiatric residential treatment facility, and whether they are giving consent without fear or threat of detention or initiation of conservatorship proceedings.

(3) The court shall not continue the hearing unless the minor consents to the continuance and the court determines that additional evidence is necessary to support the findings required by subdivision (c). Any continuance shall be for only such period of time as is necessary to obtain the evidence and only if it is not detrimental to the minor's health condition.

(d) (1) The court may grant a parent, guardian, or Indian custodian's request to have a child admitted, or authorize the minor's voluntary consent to admission, into a psychiatric residential treatment facility only if it finds, by clear and convincing evidence, all of the following:

(A) That the minor suffers from a mental disorder which may reasonably be expected to be cured or ameliorated by a course of treatment offered by the hospital, facility, or program in which the minor wishes to be placed.

(B) That the psychiatric residential treatment facility is the least restrictive setting to treat the child's mental disorder.

(C) That there is no other available hospital, program, facility, or community-based care which might better serve the minor's medical needs and best interest.

(D) That the minor has given knowing and intelligent consent to admission to the facility and that the consent was not made under fear or threat of detention or initiation of conservatorship proceedings.

(E) That the minor and, where appropriate, the parent or guardian have been advised of the nature of inpatient psychiatric, patient's rights as identified in Section 6006, and their right to contact a patients' rights advocate.

(2) (A) When authorizing a parent's or guardian's consent to admission or the minor's voluntary consent, the court may make any orders necessary to ensure that the child welfare services agency promptly makes all necessary arrangements to ensure that the minor is discharged in a timely manner and with all services and supports in place as necessary for a successful transition into a less restrictive setting.

(B) The court's order authorizing the admission to a psychiatric residential treatment facility shall be effective until the first of the following events occurs: (1) the parent, guardian, or Indian custodian, or the child if admission was granted pursuant to Section 6552, withdraws consent for the child to be present in the psychiatric residential treatment facility, (2) the court finds that the child no longer suffers from a mental disorder that may reasonably be expected to be ameliorated by the treatment offered by the facility or that the psychiatric residential treatment facility is no longer the least restrictive setting for the treatment of the child's mental health needs, or (3) the court makes a superseding order.

(3) For minors who were in the custody of their parent, legal guardian or Indian custodian at the time of the authorization of admission, and based on the evidence presented during the ex parte hearing, the court shall consider whether the parent's, legal guardian's or Indian custodian's conduct contributed to the deterioration of the minor's mental disorder. If the court determines that the parent's, legal guardian's, or Indian custodian's conduct may have contributed to the deterioration, it shall direct the county probation department to investigate whether the child may be safely returned to the custody of the parent, legal guardian or Indian custodian upon their discharge from the psychiatric residential treatment facility and to take appropriate action, including, but not limited to, assessing the minor pursuant to Section 241.1, making a report to the county child welfare services agency's suspected child abuse and neglect hotline, or proceeding to modify court orders pursuant to Article 20 (commencing with Section 775).

(e) (1) Whenever a nonminor dependent under the supervision of a county juvenile probation department seeks to voluntarily consent to admission to a psychiatric residential treatment facility, the probation officer shall file an ex parte application within 48 hours of the request or, if the courts are closed for more than 48 hours after being informed of the request, on the first judicial day after being informed of the request, for a hearing to address whether the nonminor dependent has been advised of the nature of inpatient psychiatric services, patient's rights as identified in Section 6006, and their right to contact a patients' rights advocate, and gives informed voluntary consent to admission. The application shall satisfy the requirements of Title 3 of the California Rules of Court, and include all of the following:

(A) A brief description of the medical necessity for admission into a psychiatric residential treatment facility.

(B) The name of the psychiatric residential treatment facility proposed for treatment.

(C) A copy of the probation department's plan developed pursuant to subdivisions (c) and (d) of Section 16010.10.

(D) A description of any mental health services, including community-based mental health services, that were offered or provided to the nonminor dependent and an explanation for why those services were not sufficient, or an explanation for why no such services were offered or provided.

(E) A brief description of whether the nonminor dependent believes admission to a less restrictive facility would not adequately address their mental disorder.

(F) A statement describing how the nonminor dependent was given the opportunity to confer privately with their counsel regarding the application.

(G) The information required by this paragraph shall be considered sufficient to satisfy the applicant's initial burden of establishing the need for an ex parte hearing required by subdivision (c) of Rule 3.1202 of the California Rules of Court.

(2) Upon receipt of an ex parte application pursuant to paragraph (1), the juvenile court shall schedule a hearing for the next judicial day. The court clerk shall immediately notify the probation officer and the nonminor dependent's counsel of the date, time, and place for the hearing.

(3) The probation officer shall provide notice of the hearing in accordance with Title 3 of the California Rules of Court to all parties to the proceeding and their counsel of record, the nonminor dependent's tribe, if applicable, the nonminor dependent's court-appointed special advocate, if applicable, and any person designated as the nonminor dependent's educational or developmental representative pursuant to subdivision (b) of Section 726. The provisions in subdivision (c) of Section 527 of the Code of Civil Procedure shall apply to notice of the hearing. The probation officer shall make arrangements for the nonminor dependent to be present for the hearing.

(4) At the hearing, the court shall consider evidence in the form of oral testimony under oath, affidavit, or declaration, or other admissible evidence, as to all of the following:

(A) Whether the nonminor dependent's receipt of treatment in the psychiatric residential treatment facility is medically necessary.

(B) Whether there is an available less restrictive setting sufficient to meet the nonminor dependent's needs, including a less restrictive facility or community-based care.

(C) Whether and how the nonminor dependent has been advised of the nature of inpatient psychiatric services, patient's rights as identified in Section 6006, and their right to contact a patients' rights advocate.

(D) Whether and how the probation officer addressed the voluntary admission with the nonminor dependent's attorney, including whether the nonminor dependent was given the opportunity to confer privately with their attorney about a voluntary admission.

(E) Whether and how the possible voluntary admission was addressed with the child and family team, whether any member of the team objects to voluntary admission, and the reasons for the objection.

(F) The probation department's plan for the nonminor dependent, as described in Section 16010.10.

(5) (A) The court shall make a finding whether the nonminor dependent has given knowing and intelligent consent to admission. If the court finds that the nonminor dependent has not given knowing and intelligent consent, it shall direct the probation officer to convey its finding to the facility and direct the facility to discharge the nonminor dependent. If the court finds that the nonminor dependent has given knowing and intelligent consent, nothing in this section requires a court order to discharge the nonminor if the nonminor dependent subsequently withdraws their consent.

(B) The court may make any orders necessary to ensure that the probation department promptly makes all necessary arrangements to ensure that the nonminor dependent is discharged in a timely manner and with all services and supports in place as necessary for a successful transition into a less restrictive setting.

(6) The judicial proceedings described in this subdivision shall not delay a nonminor dependent's access to medically necessary services as defined in Section 14059.5 and Section 1396d(r) of Title 42 of the United States Code, which may include voluntary admission to a psychiatric residential treatment facility for inpatient psychiatric services, while the judicial proceedings are ongoing.

(f) (1) (A) No later than 60 days following the admission of a minor to a psychiatric residential treatment facility, and every 30 days thereafter, the court shall hold a review hearing on the minor's placement in the facility and the medical necessity of the placement.

(B) If the hearing described in subparagraph (A) coincides with the date for a review hearing pursuant to Section 727.2, the court may hold the hearing simultaneously with the status review hearing.

(C) At the hearing described in subparagraph (A), the court shall consider all of the following:

(i) Whether the minor, or parent or guardian, continues to consent to the voluntary admission made pursuant to this section.

(ii) Whether the minor continues to suffer from a mental disorder which may reasonably be expected to be cured or ameliorated by a course of treatment offered by the facility.

(iii) Whether there continues to be no other available hospital, program, facility, or community-based mental health service which might better serve the minor's medical needs and best interest.

(iv) Whether the psychiatric residential treatment facility, which is licensed pursuant to Section 4081, continues to meet its legal obligation to provide services to the minor.

(v) The county probation department's plan as described in subdivisions (c) and (d) of Section 16010.10, and the department's actions to implement that plan.

(D) If the court finds that the minor or their parent or guardian continues to give voluntary consent to admission, that the minor continues to suffer from a mental disorder which may reasonably be expected to be cured or ameliorated by a course of treatment offered by the facility, and that there continues to be no other available hospital, program, facility, or community-based mental health service which might better serve the minor's medical need and best interest, the court may authorize continued inpatient psychiatric services for the minor in a psychiatric residential treatment facility. If the child has been in the facility for over 30 days, there shall be a rebuttable presumption that the facility is not the least restrictive alternative to serve the child's medical need and best interest.

(E) (i) If the court finds that the minor or their parent or guardian no longer consents to the minor's admission, the court shall direct the probation officer to work immediately with the facility for discharge to a different setting with the appropriate and necessary services and supports in place. A statement from the minor's attorney that the minor no longer gives voluntary consent to the admission to the facility may be sufficient to support a finding that the minor no longer gives voluntary consent. The court shall set a hearing no later than 30 days to verify that the minor has been discharged. If the minor has not been discharged by the time of the hearing, the court shall issue any and all orders to effectuate the child's immediate discharge, including exercising its powers under subdivision (b) of Section 727. This paragraph does not preclude involuntary detention of the minor pursuant to the requirements of the Children's Civil Commitment and Mental Health Treatment Act of 1988 or Lanterman-Petris-Short Act if the minor withdraws voluntary consent. This paragraph does not preclude a parent, guardian, Indian custodian, or the minor's probation officer or attorney from arranging the minor's discharge from the facility without a court order.

(ii) If the court's determination under clause (i) includes a determination that the minor should receive treatment through another hospital, program, facility, or community-based mental health service, the court shall hold a hearing no later than 60 days from the child's discharge to ensure that the other services have been provided.

(F) If the court determines the psychiatric residential treatment facility, which is licensed pursuant to Section 4081, failed to meet its legal obligation to provide services to the minor, it may direct the social worker to engage with the facility to ensure the minor is receiving all necessary services. If necessary, the court may exercise its powers under subdivision (b) of Section 727.

(G) The court may make any orders necessary to ensure that the county probation department makes all necessary arrangements for the minor's discharge promptly and that all services and supports are in place for the minor's successful transition to a different setting. The court may direct the social worker to work with the facility on the child's aftercare plans as appropriate based on the child's progress.

(2) (A) No later than 60 days following the admission of a nonminor dependent to a psychiatric residential treatment facility, and every 30 days thereafter, the court shall hold a review hearing on the child or nonminor dependent's placement in the facility and the medical necessity of that placement.

(B) If the hearing described in subparagraph (A) coincides with the date for a hearing pursuant to Sections 366.31 and 727.25, the court may hold the hearing simultaneously with the status review hearing.

(C) At the hearing in subparagraph (A), the court shall consider all of the following:

(i) Whether the nonminor dependent continues to consent to the voluntary admission made pursuant to this section.

(ii) Whether there is an available less restrictive setting sufficient to meet the nonminor dependent's needs, including a less restrictive facility or community-based care.

(iii) Whether the nonminor dependent continues to meet medical necessity for care and treatment in the psychiatric residential treatment facility.

(iv) Whether the psychiatric residential treatment facility, which is licensed pursuant to Section 4081, continues to meet its legal obligation to provide services to the nonminor dependent.

(v) The county child welfare agency's plan as described in subdivisions (c) and (d) of Section 16010.10, and the agency's actions to implement that plan.

(D) If the court finds at any review hearing that the nonminor dependent continues to voluntarily consent to admission and that the evidence supports the nonminor dependent's need for care and treatment in the psychiatric residential treatment facility, the court shall enter these findings in the record and direct the probation officer to transmit them to the facility or interdisciplinary team. If the nonminor dependent continues to voluntarily consent to admission, the court may direct the probation officer to work with the facility on the nonminor dependent's aftercare plans as appropriate based on the nonminor dependent's needs to achieve independence.

(E) (i) If the court finds that the nonminor dependent no longer voluntarily consents, the court shall direct the probation officer to notify the facility and immediately work with the nonminor dependent and the facility for discharge to a less restrictive setting with the appropriate and necessary services and supports in place. A statement from the nonminor dependent's attorney that the nonminor dependent no longer gives voluntary consent to the admission to the facility may be sufficient to support a finding that the nonminor dependent no longer gives voluntary consent. The court shall set a hearing no later than 30 days to verify that the nonminor dependent has been discharged. If the nonminor dependent has not been discharged by the time of the hearing, the court shall issue any and all orders to effectuate the nonminor dependent's immediate discharge, including exercising its powers under subdivision (b) of Section 727. This paragraph does not preclude involuntary detention of the nonminor dependent pursuant to the requirements of the Lanterman-Petris-Short Act if the nonminor dependent withdraws voluntary consent. This paragraph does not preclude the nonminor dependent from arranging their own discharge from the facility without a court order.

(ii) If the court's determination under clause (i) includes a determination that the nonminor dependent should receive treatment through another hospital, program, facility, or community-based mental health service, the court shall hold a hearing no later than 60 days from the nonminor dependent's discharge to ensure that the other services have been provided.

(F) This paragraph does not prevent the court from holding review hearings more frequently at its discretion.

(g) (1) The court's order authorizing a request for admission to a psychiatric residential treatment facility shall be effective until the first of the following events occurs: (1) the parent, guardian, or Indian custodian, or minor if admission was granted pursuant to Section 6552, or nonminor dependent withdraws consent for the minor or nonminor dependent to be present in the psychiatric residential treatment facility, (2) the court finds that the minor or nonminor dependent no longer suffers from a mental disorder that may reasonably be expected to be ameliorated by the treatment offered by the facility or that the psychiatric residential treatment facility is no longer the least restrictive setting for the treatment of the minor's mental health needs, or (3) the court makes a superseding order. This section does not require a court order to discharge a patient if the parent, guardian, Indian custodian, minor, or nonminor dependent withdraw their consent for admission.

(2) Whenever a minor or nonminor dependent is discharged due to revocation of consent to admission, the county probation department shall, within two court days of being notified of the revocation of consent, file a petition pursuant to Section 778 requesting an order vacating the court's authorization of the minor's or nonminor dependent's admission to the facility. This subdivision does not require a court order for the discharge of a minor arranged for by the child's probation officer or attorney or nonminor dependent when consent to admission has been withdrawn.

(h) At any review hearing pursuant to Section 366.31, 727.2, or 727.25, if a minor or nonminor dependent has been admitted to a psychiatric residential treatment facility, as defined in Section 1250.10, pursuant to the consent of a conservator, the court shall review the probation department's plan developed pursuant to subdivisions (c) and (d) of Section 16010.10. The court may make any orders necessary to ensure that the probation department promptly makes all necessary arrangements to ensure that the minor or nonminor dependent is discharged in a timely manner and with all services and supports in place as necessary for a successful transition to a less restrictive setting. The court may direct the probation officer to work with the facility or, where appropriate, the minor's or nonminor dependent's court-appointed conservator to ensure the minor or nonminor dependent is receiving all necessary child welfare services and to develop the minor's or nonminor dependent's aftercare plan as appropriate based on the evidence of the minor's or nonminor dependent's progress.

(i) The documentation required by this section shall not contain information that is privileged or confidential under existing state or federal law or regulation without the appropriate waiver or consent.

(j) For purposes of this section, a "psychiatric residential treatment facility" refers to a psychiatric residential treatment facility defined in Section 1250.10 of the Health and Safety Code.

(k) All provisions in this section that apply to nonminor dependents shall apply equally to foster children who remain under juvenile court jurisdiction pursuant to subdivision (a) of Section 303 after reaching the age of majority even if they do not meet the definition of "nonminor dependent" contained in subdivision (v) of Section 11400.

SEC. 28. Section 4336 of the Welfare and Institutions Code is amended to read:

4336. (a) As used in this section, "department" means the State Department of State Hospitals.

(b) (1) The department shall implement a growth cap program for all counties for individuals committed pursuant to Section 1370 of the Penal Code. The department shall charge counties penalty payments as described in this subdivision to implement the growth cap program.

(2) The baseline number of individuals determined to be incompetent to stand trial on felony charges for each county shall be the number of felony incompetency determinations made in the 2021–22 fiscal year for each county. For any county with zero felony incompetency to stand trial determinations in the 2021–22 fiscal year, the baseline shall be set at one individual.

(3) (A) Commencing with the 2022–23 fiscal year and each fiscal year thereafter, for each felony incompetent to stand trial determination that exceeds the baseline number identified in paragraph (2), a county shall pay the penalty amount described in subparagraph (C).

(B) The department shall reconcile the total county incompetent to stand trial determinations against the baseline by September 30 each year.

(C) Calculations shall be based on the published per individual rate set forth by the department for state hospital treatment for individuals found incompetent to stand trial on a felony charge, as follows:

(i) Each county shall make penalty payments equivalent to 50 percent of the rate for the 5th, 6th, and 7th individual felony incompetent to stand trial determinations over the baseline, 75 percent of the rate for the 8th and 9th individual felony incompetent to stand trial determinations over the baseline, and 100 percent of the rate for the 10th and all subsequent felony incompetent to stand trial determinations over the baseline.

(ii) (I) Commencing with the 2026–27 fiscal year and each fiscal year thereafter, a county with a felony mental health diversion or community-based restoration contract with the department shall, for the third and any subsequent individual felony incompetent to stand trial determinations over the baseline, make penalty payments equivalent to 100 percent of the rate.

(II) Commencing with the 2026–27 fiscal year and each fiscal year thereafter, any county without a felony mental health diversion or community-based restoration contract with the department shall, for the third and any subsequent individual felony incompetent to stand trial determinations over the baseline, make penalty payments equivalent to 150 percent of the rate.

(D) Commencing with the 2022–23 fiscal year, the department shall periodically notify the superior court and relevant county agencies of each county, including, but not limited to, the county administrator, behavioral health department, sheriff, public defender, and district attorney of the total number of felony incompetent to stand trial determinations made in that county for the current fiscal year compared to the baseline determination for that county.

(E) Commencing with the 2023–24 fiscal year, each county shall remit payment to the department in an amount equal to the amount identified in the invoice issued to the county administrator or their designee by the department. The penalty payment shall be due no later than 90 days after the date that the invoice is received by the county. The penalty funds shall be collected as revenue by the department and deposited by the Controller into the Mental Health Diversion Fund, created pursuant to subdivision (c).

(F) A county may pay these penalty payments from any local funding source available, including funds received by the county through contracts issued by the department to the county for purposes of serving the felony incompetent to stand trial population.

(G) Commencing with the 2023–24 fiscal year, and each fiscal year thereafter, notwithstanding any other budgetary or accounting requirements, the department shall make the final determination of the proper budgeting and accounting of the penalties received, deposited, and disbursed from the Mental Health Diversion Fund to each county as appropriate.

(c) (1) The Mental Health Diversion Fund is hereby created in the State Treasury. The fund shall receive penalty payments from each county as collected by the department pursuant to this section. All moneys in the fund are reserved and continuously appropriated, without regard to fiscal years. The funds collected in the fund shall be used for the purpose of supporting county activities that will divert individuals with serious mental illnesses away from the criminal justice system and lead to the reduction of felony incompetent to stand trial determinations.

(2) Activities supported by the funds collected in the Mental Health Diversion Fund shall include one or more of the following:

(A) Prebooking mental health diversion to serve those with serious mental illness and prevent their felony arrest. The target population that shall be served are individuals demonstrating psychosis manifesting as hallucinations, delusions,

disorganized thoughts, or disorganized behavior at the time of the interaction.

(B) Postbooking mental health diversion to serve those with serious mental illness and who are likely to be found incompetent to stand trial, to prevent the incompetent to stand trial determination and divert the individual from incarceration. The target population that shall be served are individuals diagnosed with a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, but not limited to, bipolar disorder, schizophrenia, and schizoaffective disorder but excluding a primary diagnosis of antisocial personality disorder, borderline personality disorder, and pedophilia, and who are presenting non-substance-induced psychotic symptoms.

(C) Reentry services and support to serve those who have been restored to competency following a felony incompetent to stand trial commitment and directly released to the community from jail.

(d) (1) Beginning in the 2024–25 fiscal year, each county that has received funds from the Mental Health Diversion Fund shall submit an annual report to the department, on or before October 1 of each fiscal year, identifying how funds were used in the prior fiscal year.

(2) The department shall, by no later than July 1, 2024, publish an administrative letter to counties outlining the required form and content of the report.

(3) Annual reports submitted by each county subject to this section shall include, without limitation, the number of individuals served, the services and support provided, and the projected impact to the number of felony incompetent to stand trial determinations by the county.

(e) Commencing with the 2023–24 fiscal year, and each fiscal year thereafter, the department shall submit a schedule to the Controller of disbursements of funds from the Mental Health Diversion Fund to each county. Disbursements for each county shall equal the amount of county payments made to the department in accordance with subdivision (b).

(f) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of a departmental letter or other similar instruction, as necessary.

SEC. 29. 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. 30. Any section of any act enacted by the Legislature during the 2023 calendar year that takes effect on or before January 1, 2024, 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 the act is enacted before, or subsequent to, the enactment of this act.