

An act to amend Sections 68121, 70010.1, 70010.5, and 76300 of the Education Code, to amend Sections 6254.17, 6276.08, 7599.2, 11125.7, 11125.8, 12803.2, 13900, 13901, 13905, 13951, 13972, 13973, 13974, 13974.1, and 13974.5 of, and to amend the heading of Part 4 (commencing with Section 13900) of Division 3 of Title 2 of, the Government Code, to amend Section 1492 of the Health and Safety Code, to amend Sections 422.92, 600.2, 600.5, 851.8, 851.865, 1191.15, 1191.2, 1202.4, 1202.41, 1214, 1463.02, 1485.5, 1485.55, 2085.5, 2085.6, 4900, 4901, 4902, 4904, 4905, 4906, 13835.2, and 14030 of the Penal Code, to amend Sections 216 and 9202 of the Probate Code, and to amend Sections 1752.81, 1752.82, and 11212 of the Welfare and Institutions Code, relating to state government.

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

SECTION 1. Section 68121 of the Education Code is amended to read:

68121. (a) Notwithstanding any other provision of law, no mandatory systemwide fees or tuition of any kind shall be required or collected by the Regents of the University of California or the Trustees of the California State University, from a student who is in an undergraduate program and who is the surviving dependent of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center in New York City, the Pentagon building in Washington, DC, or the crash of United Airlines Flight 93 in southwestern Pennsylvania, if he or she meets the financial need requirements set forth in Section 69432.7 for the Cal Grant A Program and either of the following apply:

(1) The surviving dependent was a resident of California on September 11, 2001.

(2) The individual killed in the attacks was a resident of California on September 11, 2001.

(b) (1) ~~The California Victim Compensation and Government Claims Board~~ shall identify all persons who are eligible for tuition and fee waivers pursuant to this section or subdivision (j) of Section 76300. That board shall notify these persons or, in the case of minors, the parents or guardians of these persons, of their eligibility for tuition and fee waivers under these provisions. This notification shall be in writing, and shall be received by all of the appropriate persons no later than July 1, 2003.

(2) The Trustees of the California State University, the Regents of the University of California and the governing board of each community college district in the state shall waive tuition and fees, as specified in this section and in subdivision (j) of Section

76300, for any person who can demonstrate eligibility. If requested by the California State University, the University of California, Hastings College of the Law, or a California Community College, the California Victim Compensation and Government Claims Board, on a case-by-case basis, shall confirm the eligibility of persons requesting the waiver of tuition and fees, as provided for in this section.

(c) A determination of whether a person is a resident of California on September 11, 2001, shall be based on the criteria set forth in this chapter for determining nonresident and resident tuition.

(d) (1) "Dependent," for purposes of this section, is a person who, because of his or her relationship to an individual killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, qualifies for compensation under the federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of Public Law 107-42).

(2) A dependent who is the surviving spouse of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers provided in this section until January 1, 2013.

(3) A dependent who is the surviving child, natural or adopted, of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers under this section until that person obtains the age of 30 years.

(4) A dependent of an individual killed in the terrorist attacks of September 11, 2001, who is determined to be eligible by the California Victim Compensation and Government Claims Board, is also entitled to the waivers provided in this section until January 1, 2013.

SEC. 2. Section 70010.1 of the Education Code is amended to read:

70010.1. As used in this article:

(a) “Board” means the Scholarshare Investment Board established pursuant to Section 69984.

(b) “California resident” means a person who would not be required to pay nonresident tuition under Chapter 1 (commencing with Section 68000) of Part 41.

(c) “Dependent” means a person identified by the California Victim Compensation and Government Claims Board because of his or her relationship to a California resident killed as a result of injuries sustained during the terrorist attacks of September 11, 2001.

(d) “Fund” means the California Memorial Scholarship Fund established pursuant to Section 5066 of the Vehicle Code.

(e) “Institution of higher education” has the same meaning as “eligible educational institution,” as defined in paragraph (5) of subsection (e) of Section 529 of the Internal Revenue Code of 1986, as amended by Section 211 of the Taxpayer Relief Act of 1997 (Public Law 105-34).

(f) “Participant” means a surviving dependent of a California resident killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, who has executed, or on whose behalf has been executed, an agreement pursuant to Section 70011.

(g) “Program” means the California Memorial Scholarship Program established pursuant to Section 70010.

(h) "Scholarship" means a participant's account as established by the board with moneys deposited in the fund.

SEC. 3. Section 70010.5 of the Education Code is amended to read:

70010.5. (a) The California Victim Compensation and Government Claims Board shall identify, and confirm by documentation, all persons who are eligible for scholarships under the program. The California Victim Compensation and Government Claims Board shall use various methods to identify those persons, including, but not limited to, all of the following:

(1) Media outreach, including, but not limited to, social media, that explains the details of the program, who is eligible for scholarships under the program, and how to sign up for further notifications regarding the program.

(2) Written notification to persons, or in the case of minors, their parents or guardians, who have previously been identified as eligible for scholarships under the program, and their known family members. The notification shall explain that the program has been reopened, and that the California Victim Compensation and Government Claims Board is seeking information regarding other persons who may be eligible for the program, and shall provide instructions on how to sign up for further notifications regarding the program.

(3) Communication with the Special Master of the federal September 11th Victim Compensation Fund to determine if additional victims who were California residents have been identified.

(b) After creating a new list of eligible persons for the program, the California Victim Compensation and Government Claims Board shall notify these persons or, in

the case of minors, the parents or guardians of these persons, of their eligibility for scholarships under the program.

(1) The notification shall be in writing.

(2) The notification shall provide details on the program and how to apply for scholarships under the program.

(3) The notification shall be received by all of the appropriate persons no later than July 1, 2015.

(c) The Scholarshare Investment Board shall service scholarships pursuant to this article only for individuals determined to be eligible by the California Victim Compensation and Government Claims Board.

(d) Eligible persons, or in the case of minors, the parents or guardians of these persons, shall inform the Scholarshare Investment Board of their decision on whether to participate in the program in a timely manner. Eligible persons, or in the case of minors, the parents or guardians of these persons, who are to become participants in the program shall execute agreements pursuant to Section 70011 no later than July 1, 2016.

SEC. 4. Section 76300 of the Education Code is amended to read:

76300. (a) The governing board of each community college district shall charge each student a fee pursuant to this section.

(b) (1) The fee prescribed by this section shall be forty-six dollars (\$46) per unit per semester, effective with the summer term of the 2012 calendar year.

(2) The board of governors shall proportionately adjust the amount of the fee for term lengths based upon a quarter system, and also shall proportionately adjust the

amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the board of governors may round the per unit fee and the per term or per session fee to the nearest dollar.

(c) For the purposes of computing apportionments to community college districts pursuant to Section 84750.5, the board of governors shall subtract, from the total revenue owed to each district, 98 percent of the revenues received by districts from charging a fee pursuant to this section.

(d) The board of governors shall reduce apportionments by up to 10 percent to any district that does not collect the fees prescribed by this section.

(e) The fee requirement does not apply to any of the following:

(1) Students enrolled in the noncredit courses designated by Section 84757.

(2) California State University or University of California students enrolled in remedial classes provided by a community college district on a campus of the University of California or a campus of the California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(3) Students enrolled in credit contract education courses pursuant to Section 78021, if the entire cost of the course, including administrative costs, is paid by the public or private agency, corporation, or association with which the district is contracting and if these students are not included in the calculation of the full-time equivalent students (FTES) of that district.

(f) The governing board of a community college district may exempt special part-time students admitted pursuant to Section 76001 from the fee requirement.

(g) (1) The fee requirements of this section shall be waived for any student who meets all of the following requirements:

(A) Meets minimum academic and progress standards adopted by the board of governors, which fulfill the requirements outlined in this paragraph and paragraphs (2) to (5), inclusive. Any minimum academic and progress standards adopted pursuant to this section shall be uniform across all community college districts and campuses. These standards shall not include a maximum unit cap, and community college districts and colleges shall not impose requirements for fee waiver eligibility other than the minimum academic and progress standards adopted by the board of governors and the requirements of subparagraph (B).

(B) Meets one of the following criteria:

(i) At the time of enrollment, is a recipient of benefits under the Temporary Assistance for Needy Families program, the Supplemental Security Income/State Supplementary Payment Program, or a general assistance program.

(ii) Demonstrates eligibility according to income standards established by regulations of the board of governors.

(iii) Demonstrates financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid.

(2) (A) The board of governors, in consultation with students, faculty, and other key stakeholders, shall consider all of the following in the development and adoption of minimum academic and progress standards pursuant to subparagraph (A) of paragraph (1):

(i) Minimum uniform academic and progress standards that do not unfairly disadvantage financially needy students in pursuing their education.

(ii) Criteria for reviewing extenuating circumstances and granting appeals that, at a minimum, take into account and do not penalize a student for circumstances outside his or her control, such as reductions in student support services or changes to the economic situation of the student.

(iii) A process for reestablishing fee waiver eligibility that provides a student with a reasonable opportunity to continue or resume his or her enrollment at a community college.

(B) To ensure that students are not unfairly impacted by the requirements of subparagraph (A) of paragraph (1), the board of governors shall establish a reasonable implementation period that commences no sooner than one year from adoption of the minimum academic and progress standards, or any subsequent changes to these standards, pursuant to subparagraph (A) of paragraph (1) and that is phased in to provide students adequate notification of this requirement and information about available support resources.

(3) It is the intent of the Legislature that minimum academic and progress standards adopted pursuant to subparagraph (A) of paragraph (1) be implemented only as campuses develop and implement the student support services and interventions necessary to ensure no disproportionate impact to students based on ethnicity, gender, disability, or socioeconomic status. The board of governors shall consider the ability of community college districts to meet the requirements of this paragraph before

adopting minimum academic and progress standards, or any subsequent changes to these standards, pursuant to subparagraph (A) of paragraph (1).

(4) It is the intent of the Legislature to ensure that a student shall not lose fee waiver eligibility without a community college campus first demonstrating a reasonable effort to provide a student with adequate notification and assistance in maintaining his or her fee waiver eligibility. The board of governors shall adopt regulations to implement this paragraph that ensure all of the following:

(A) Students are provided information about the available student support services to assist them in maintaining fee waiver eligibility.

(B) Community college district policies and course catalogs reflect the minimum academic and progress standards adopted pursuant to subparagraph (A) of paragraph (1) and that appropriate notice is provided to students before the policies are put into effect.

(C) A student does not lose fee waiver eligibility unless he or she has not met minimum academic and progress standards adopted pursuant to subparagraph (A) of paragraph (1) for a period of no less than two consecutive academic terms.

(5) The board of governors shall provide notification of a proposed action to adopt regulations pursuant to this subdivision to the appropriate policy and fiscal committees of the Legislature in accordance with the requirements of paragraph (1) of subdivision (a) of Section 70901.5. This notification shall include, but not be limited to, all of the following:

(A) The proposed minimum academic and progress standards and information detailing how the requirements of paragraphs (1) to (4), inclusive, have been or will be satisfied.

(B) How many students may lose fee waiver eligibility by ethnicity, gender, disability, and, to the extent relevant data is available, by socioeconomic status.

(C) The criteria for reviewing extenuating circumstances, granting appeals, and reestablishing fee waiver eligibility pursuant to paragraph (2).

(h) The fee requirements of this section shall be waived for any student who, at the time of enrollment, is a dependent or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. "Active service of the state," for the purposes of this subdivision, refers to a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.

(i) The fee requirements of this section shall be waived for any student who is the surviving spouse or the child, natural or adopted, of a deceased person who met all of the requirements of Section 68120.

(j) The fee requirements of this section shall be waived for any student in an undergraduate program, including a student who has previously graduated from another undergraduate or graduate program, who is the dependent of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center and the Pentagon or the crash of United Airlines Flight 93 in southwestern Pennsylvania, if that dependent

meets the financial need requirements set forth in Section 69432.7 for the Cal Grant A Program and either of the following applies:

(1) The dependent was a resident of California on September 11, 2001.

(2) The individual killed in the attacks was a resident of California on September 11, 2001.

(k) A determination of whether a person is a resident of California on September 11, 2001, for purposes of subdivision (j) shall be based on the criteria set forth in Chapter 1 (commencing with Section 68000) of Part 41 of Division 5 for determining nonresident and resident tuition.

(l) (1) "Dependent," for purposes of subdivision (j), is a person who, because of his or her relationship to an individual killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, qualifies for compensation under the federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of Public Law 107-42).

(2) A dependent who is the surviving spouse of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers provided in this section until January 1, 2013.

(3) A dependent who is the surviving child, natural or adopted, of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers under subdivision (j) until that person attains 30 years of age.

(4) A dependent of an individual killed in the terrorist attacks of September 11, 2001, who is determined to be eligible by the California Victim Compensation and

~~Government Claims~~ Board, is also entitled to the waivers provided in this section until January 1, 2013.

(m) (1) It is the intent of the Legislature that sufficient funds be provided to support the provision of a fee waiver for every student who demonstrates eligibility pursuant to subdivisions (g) to (j), inclusive.

(2) From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to 2 percent of the fees waived pursuant to subdivisions (g) to (j), inclusive. From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to ninety-one cents (\$0.91) per credit unit waived pursuant to subdivisions (g) to (j), inclusive. It is the intent of the Legislature that funds provided pursuant to this subdivision be used to support the determination of financial need and delivery of student financial aid services, on the basis of the number of students for whom fees are waived. It also is the intent of the Legislature that the funds provided pursuant to this subdivision directly offset mandated costs claimed by community college districts pursuant to Commission on State Mandates consolidated Test Claims 99-TC-13 (Enrollment Fee Collection) and 00-TC-15 (Enrollment Fee Waivers). Funds allocated to a community college district for determination of financial need and delivery of student financial aid services shall supplement, and shall not supplant, the level of funds allocated for the administration of student financial aid programs during the 1992–93 fiscal year.

(n) The board of governors shall adopt regulations implementing this section.

(o) This section shall become operative on May 1, 2012, only if subdivision (b) of Section 3.94 of the Budget Act of 2011 is operative.

SEC. 5. Section 6254.17 of the Government Code is amended to read:

6254.17. (a) Nothing in this chapter shall be construed to require disclosure of records of the California Victim Compensation and Government Claims Board that relate to a request for assistance under Article 1 (commencing with Section 13950) of Chapter 5 of Part 4 of Division 3 of Title 2.

(b) This section shall not apply to a disclosure of the following information, if no information is disclosed that connects the information to a specific victim, derivative victim, or applicant under Article 1 (commencing with Section 13950) of Chapter 5 of Part 4 of Division 3 of Title 2:

- (1) The amount of money paid to a specific provider of services.
- (2) Summary data concerning the types of crimes for which assistance is provided.

SEC. 6. Section 6276.08 of the Government Code is amended to read:

6276.08. Cable television subscriber information, confidentiality of, Section 637.5, Penal Code.

CalFresh, disclosure of information, Section 18909, Welfare and Institutions Code.

California AIDS Program, personal data, confidentiality, Section 120820, Health and Safety Code.

California Apple Commission, confidentiality of lists of persons, Section 75598, Food and Agricultural Code.

California Apple Commission, confidentiality of proprietary information from producers or handlers, Section 75633, Food and Agricultural Code.

California Asparagus Commission, confidentiality of lists of producers, Section 78262, Food and Agricultural Code.

California Asparagus Commission, confidentiality of proprietary information from producers, Section 78288, Food and Agricultural Code.

California Avocado Commission, confidentiality of information from handlers, Section 67094, Food and Agricultural Code.

California Avocado Commission, confidentiality of proprietary information from handlers, Section 67104, Food and Agricultural Code.

California Cherry Commission, confidentiality of proprietary information from producers, processors, shippers, or grower-handlers, Section 76144, Food and Agricultural Code.

California Children's Services Program, confidentiality of factor replacement therapy contracts, Section 123853, Health and Safety Code.

California Cut Flower Commission, confidentiality of lists of producers, Section 77963, Food and Agricultural Code.

California Cut Flower Commission, confidentiality of proprietary information from producers, Section 77988, Food and Agricultural Code.

California Date Commission, confidentiality of proprietary information from producers and grower-handlers, Section 77843, Food and Agricultural Code.

California Egg Commission, confidentiality of proprietary information from handlers or distributors, Section 75134, Food and Agricultural Code.

California Forest Products Commission, confidentiality of lists of persons, Section 77589, Food and Agricultural Code.

California Forest Products Commission, confidentiality of proprietary information from producers, Section 77624, Food and Agricultural Code.

California Iceberg Lettuce Commission, confidentiality of information from handlers, Section 66624, Food and Agricultural Code.

California Kiwifruit Commission, confidentiality of proprietary information from producers or handlers, Section 68104, Food and Agricultural Code.

California Navel Orange Commission, confidentiality of proprietary information from producers or handlers and lists of producers and handlers, Section 73257, Food and Agricultural Code.

California Pepper Commission, confidentiality of lists of producers and handlers, Section 77298, Food and Agricultural Code.

California Pepper Commission, confidentiality of proprietary information from producers or handlers, Section 77334, Food and Agricultural Code.

California Pistachio Commission, confidentiality of proprietary information from producers or processors, Section 69045, Food and Agricultural Code.

California Salmon Commission, confidentiality of fee transactions records, Section 76901.5, Food and Agricultural Code.

California Salmon Commission, confidentiality of request for list of commercial salmon vessel operators, Section 76950, Food and Agricultural Code.

California Seafood Council, confidentiality of fee transaction records, Section 78553, Food and Agricultural Code.

California Seafood Council, confidentiality of information on volume of fish landed, Section 78575, Food and Agricultural Code.

California Sheep Commission, confidentiality of proprietary information from producers or handlers and lists of producers, Section 76343, Food and Agricultural Code.

California State University contract law, bids, questionnaires and financial statements, Section 10763, Public Contract Code.

California State University Investigation of Reported Improper Governmental Activities Act, confidentiality of investigative audits completed pursuant to the act, Section 89574, Education Code.

California Table Grape Commission, confidentiality of information from shippers, Section 65603, Food and Agricultural Code.

California Tomato Commission, confidentiality of lists of producers, handlers, and others, Section 78679, Food and Agricultural Code.

California Tomato Commission, confidentiality of proprietary information, Section 78704, Food and Agricultural Code.

California Tourism Marketing Act, confidentiality of information pertaining to businesses paying the assessment under the act, Section 13995.54.

California Victim Compensation and Government Claims Board, disclosure not required of records relating to assistance requests under Article 1 (commencing with Section 13950) of Chapter 5 of Part 4 of Division 3 of Title 2, Section 6254.17.

California Walnut Commission, confidentiality of lists of producers, Section 77101, Food and Agricultural Code.

California Walnut Commission, confidentiality of proprietary information from producers or handlers, Section 77154, Food and Agricultural Code.

California Wheat Commission, confidentiality of proprietary information from handlers and lists of producers, Section 72104, Food and Agricultural Code.

California Wheat Commission, confidentiality of requests for assessment refund, Section 72109, Food and Agricultural Code.

California Wine Commission, confidentiality of proprietary information from producers or vintners, Section 74655, Food and Agricultural Code.

California Wine Grape Commission, confidentiality of proprietary information from producers and vintners, Section 74955, Food and Agricultural Code.

SEC. 7. Section 7599.2 of the Government Code is amended to read:

7599.2. Distribution of Moneys from the Safe Neighborhoods and Schools Fund.

(a) By August 15 of each fiscal year beginning in 2016, the Controller shall disburse moneys deposited in the Safe Neighborhoods and Schools Fund as follows:

(1) Twenty-five percent to the State Department of Education, to administer a grant program to public agencies aimed at improving outcomes for public school pupils in kindergarten and grades 1 to 12, inclusive, by reducing truancy and supporting students who are at risk of dropping out of school or are victims of crime.

(2) Ten percent to the California Victim Compensation and Government Claims Board, to make grants to trauma recovery centers to provide services to victims of crime pursuant to Section 13963.1 of the Government Code.

(3) Sixty-five percent to the Board of State and Community Corrections, to administer a grant program to public agencies aimed at supporting mental health treatment, substance abuse treatment, and diversion programs for people in the criminal justice system, with an emphasis on programs that reduce recidivism of people convicted of less serious crimes, such as those covered by this measure, and those who have substance abuse and mental health problems.

(b) For each program set forth in paragraphs (1) to (3), inclusive, of subdivision (a), the agency responsible for administering the programs shall not spend more than 5 percent of the total funds it receives from the Safe Neighborhoods and Schools Fund on an annual basis for administrative costs.

(c) Every two years, the Controller shall conduct an audit of the grant programs operated by the agencies specified in paragraphs (1) to (3), inclusive, of subdivision (a) to ensure the funds are disbursed and expended solely according to this chapter and shall report his or her findings to the Legislature and the public.

(d) Any costs incurred by the Controller and the Director of Finance in connection with the administration of the Safe Neighborhoods and Schools Fund, including the costs of the calculation required by Section 7599.1 and the audit required by subdivision (c), as determined by the Director of Finance, shall be deducted from the Safe Neighborhoods and Schools Fund before the funds are disbursed pursuant to subdivision (a).

(e) The funding established pursuant to this act shall be used to expand programs for public school pupils in kindergarten and grades 1 to 12, inclusive, victims of crime, and mental health and substance abuse treatment and diversion programs for people

in the criminal justice system. These funds shall not be used to supplant existing state or local funds utilized for these purposes.

(f) Local agencies shall not be obligated to provide programs or levels of service described in this chapter above the level for which funding has been provided.

SEC. 8. Section 11125.7 of the Government Code is amended to read:

11125.7. (a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public if no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the

total amount of time allocated for public comment on particular issues and for each individual speaker.

(c) (1) Notwithstanding subdivision (b), when a state body limits time for public comment the state body shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the state body.

(2) Paragraph (1) shall not apply if the state body utilizes simultaneous translation equipment in a manner that allows the state body to hear the translated public testimony simultaneously.

(d) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(e) This section is not applicable to closed sessions held pursuant to Section 11126.

(f) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(g) This section is not applicable to hearings conducted by the California Victim Compensation and Government Claims Board pursuant to Sections 13963 and 13963.1.

(h) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code.

For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

SEC. 9. Section 11125.8 of the Government Code is amended to read:

11125.8. (a) Notwithstanding Section 11131.5, in any hearing that the California Victim Compensation and Government Claims Board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, no notice, agenda, announcement, or report required under this article need identify the applicant.

(b) In any hearing that the board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, the board shall disclose that the hearing is being held pursuant to Section 13963.1. That disclosure shall be deemed to satisfy the requirements of subdivision (a) of Section 11126.3.

SEC. 10. Section 12803.2 of the Government Code is amended to read:

12803.2. (a) The Government Operations Agency shall consist of all of the following:

- (1) The Office of Administrative Law.
- (2) The Public Employees' Retirement System.
- (3) The State Teachers' Retirement System.
- (4) The State Personnel Board.
- (5) The California Victim Compensation and Government Claims Board.

(6) The Department of General Services.

(7) The Department of Technology.

(8) The Franchise Tax Board.

(9) The Department of Human Resources.

(b) The Government Operations Agency shall be governed by the Secretary of Government Operations pursuant to Section 12801. However, the Director of Human Resources shall report directly to the Governor on issues relating to labor relations.

(c) The Governor, upon the recommendation of the Secretary of Government Operations, may appoint up to three deputies for the secretary.

SEC. 11. The heading of Part 4 (commencing with Section 13900) of Division 3 of Title 2 of the Government Code is amended to read:

~~PART 4. CALIFORNIA VICTIM COMPENSATION AND GOVERNMENT CLAIMS~~  
BOARD

SEC. 12. Section 13900 of the Government Code is amended to read:

13900. (a) As used in this chapter, "board" means the California Victim Compensation and Government Claims Board.

~~(b) Any reference in statute or regulation to the State Board of Control shall be construed to refer to the California Victim Compensation and Government Claims Board.~~

(b) Except as provided by Section 14659.01, whenever the term "California Victim Compensation and Government Claims Board" appears in any statute, regulation,

contract, or any other code, it shall be construed to refer to the California Victim Compensation Board, unless the context clearly requires otherwise.

SEC. 13. Section 13901 of the Government Code is amended to read:

13901. (a) There is within the Government Operations Agency the California Victim Compensation ~~and Government Claims~~ Board.

(b) The board consists of the Secretary of Government Operations or his or her designee and the Controller, both acting ex officio, and a third member who shall be appointed by and serve at the pleasure of the Governor. The third member may be a state officer who shall act ex officio.

~~(c) Any reference in statute or regulation to the State Board of Control shall be construed to refer to the California Victim Compensation and Government Claims Board.~~

SEC. 14. Section 13905 of the Government Code is amended to read:

13905. The board shall have a seal, bearing the following inscription: "California Victim Compensation ~~and Government Claims~~ Board." The seal shall be fixed to all writs and authentications of copies of records and to other instruments that the board directs.

SEC. 15. Section 13951 of the Government Code is amended to read:

13951. As used in this chapter, the following definitions shall apply:

(a) "Board" means the California Victim Compensation ~~and Government Claims~~ Board.

(b) (1) “Crime” means a crime or public offense, wherever it may take place, that would constitute a misdemeanor or a felony if the crime had been committed in California by a competent adult.

(2) “Crime” includes an act of terrorism, as defined in Section 2331 of Title 18 of the United States Code, committed against a resident of the state, whether or not the act occurs within the state.

(c) “Derivative victim” means an individual who sustains pecuniary loss as a result of injury or death to a victim.

(d) “Law enforcement” means every district attorney, municipal police department, sheriff’s department, district attorney’s office, county probation department, and social services agency, the Department of Justice, the Department of Corrections, the Department of the Youth Authority, the Department of the California Highway Patrol, the police department of any campus of the University of California, California State University, or community college, and every agency of the State of California expressly authorized by statute to investigate or prosecute law violators.

(e) “Pecuniary loss” means an economic loss or expense resulting from an injury or death to a victim of crime that has not been and will not be reimbursed from any other source.

(f) “Peer counseling” means counseling offered by a provider of mental health counseling services who has completed a specialized course in rape crisis counseling skills development, participates in continuing education in rape crisis counseling skills development, and provides rape crisis counseling within the State of California.

(g) "Victim" means an individual who sustains injury or death as a direct result of a crime as specified in subdivision (e) of Section 13955.

(h) "Victim center" means a victim and witness assistance center that receives funds pursuant to Section 13835.2 of the Penal Code.

SEC. 16. Section 13972 of the Government Code is amended to read:

13972. (a) If a private citizen incurs personal injury or death or damage to his or her property in preventing the commission of a crime against the person or property of another, in apprehending a criminal, or in materially assisting a peace officer in prevention of a crime or apprehension of a criminal, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe, the private citizen, his or her surviving spouse, his or her surviving children, a person dependent upon the citizen for his or her principal support, any person legally liable for the citizen's pecuniary losses, or a public safety or law enforcement agency acting on behalf of any of the above may file a claim with the California Victim Compensation and Government Claims Board for indemnification to the extent that the claimant is not compensated from any other source for the injury, death, or damage. The claim shall generally show all of the following:

(1) The date, place, and other circumstances of the occurrence or events that gave rise to the claim.

(2) A general description of the activities of the private citizen in prevention of a crime, apprehension of a criminal, or rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe.

(3) The amount or estimated amount of the injury, death, or damage sustained for which the claimant is not compensated from any other source, insofar as it may be known at the time of the presentation of the claim.

(4) Any other information that the California Victim Compensation and Government Claims Board may require.

(b) A claim filed under subdivision (a) shall be accompanied by a corroborating statement and recommendation from the appropriate state or local public safety or law enforcement agency.

SEC. 17. Section 13973 of the Government Code is amended to read:

13973. (a) Upon presentation of a claim pursuant to this chapter, the California Victim Compensation and Government Claims Board shall fix a time and place for the hearing of the claim, and shall mail notices of the hearing to interested persons or agencies. The board shall receive recommendations from public safety or law enforcement agencies, and evidence showing all of the following:

(1) The nature of the crime committed by the apprehended criminal or prevented by the action of the private citizen, or the nature of the action of the private citizen in rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe, and the circumstances involved.

(2) That the actions of the private citizen substantially and materially contributed to the apprehension of a criminal, the prevention of a crime, or the rescuing of a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe.

(3) That, as a direct consequence, the private citizen incurred personal injury or damage to property or died.

(4) The extent of the injury or damage for which the claimant is not compensated from any other source.

(5) Any other evidence that the board may require.

(b) If the board determines, on the basis of a preponderance of the evidence, that the state should indemnify the claimant for the injury, death, or damage sustained, it shall approve the claim for payment. In no event shall a claim be approved by the board under this article in excess of ten thousand dollars (\$10,000).

(c) In addition to any award made under this chapter, the board may award, as attorney's fees, an amount representing the reasonable value of legal services rendered a claimant, but in no event to exceed 10 percent of the amount of the award. No attorney shall charge, demand, receive, or collect for services rendered in connection with any proceedings under this chapter any amount other than that awarded as attorney's fees under this section. Claims approved under this chapter shall be paid from a separate appropriation made to the California Victim Compensation and Government Claims Board in the Budget Act and as the claims are approved by the board.

SEC. 18. Section 13974 of the Government Code is amended to read:

13974. The California Victim Compensation and Government Claims Board is hereby authorized to make all needful rules and regulations consistent with the law for the purpose of carrying into effect this article.

SEC. 19. Section 13974.1 of the Government Code is amended to read:

13974.1. (a) The California Victim Compensation and Government Claims Board shall use the applicable provisions of this article to establish a claim and reward procedure to reward persons providing information leading to the location of any child

listed in the missing children registry compiled pursuant to former Section 11114 of the Penal Code or maintained pursuant to the system maintained pursuant to Sections 14203 and 14204 of the Penal Code.

(b) Awards shall be made upon recommendation of the Department of Justice in an amount of not to exceed five hundred dollars (\$500) to any one individual. However, as a condition to an award, in any particular case, an amount equal to or greater in nonstate funds shall have been first offered as a reward for information leading to the location of that missing child.

(c) The Missing Children Reward Fund is abolished and any remaining balance is transferred to the Restitution Fund. The California Victim Compensation and Government Claims Board shall make awards pursuant to this section from the Restitution Fund, using the appropriation authority provided in Section 13964.

SEC. 20. Section 13974.5 of the Government Code is amended to read:

13974.5. (a) The California Victim Compensation and Government Claims Board shall enter into an interagency agreement with the University of California, San Francisco, to establish a victims of crime recovery center at the San Francisco General Hospital for the purpose of providing comprehensive and integrated services to victims of crime, subject to conditions set forth by the board.

(b) This section shall not apply to the University of California unless the Regents of the University of California, by appropriate resolution, make this section applicable.

(c) This section shall only be implemented to the extent that funding is appropriated for that purpose.

SEC. 21. Section 1492 of the Health and Safety Code is amended to read:

1492. A county hospital shall provide persons examined or treated in connection with rape or other sexual assaults with information regarding assistance which may be provided pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, together with forms made available by the ~~State~~ California Victim Compensation Board of Control for filing of claims thereunder.

SEC. 22. Section 422.92 of the Penal Code is amended to read:

422.92. (a) Every state and local law enforcement agency in this state shall make available a brochure on hate crimes to victims of these crimes and the public.

(b) The Department of Fair Employment and Housing shall provide existing brochures, making revisions as needed, to local law enforcement agencies upon request for reproduction and distribution to victims of hate crimes and other interested parties. In carrying out these responsibilities, the department shall consult the Fair Employment and Housing Council, the Department of ~~Justice~~ Justice, and the California Victim Compensation ~~and Government Claims~~ Board.

SEC. 23. Section 600.2 of the Penal Code is amended to read:

600.2. (a) It is a crime for any person to permit any dog which is owned, harbored, or controlled by him or her to cause injury to or the death of any guide, signal, or service dog, as defined by Section 54.1 of the Civil Code, while the guide, signal, or service dog is in discharge of its duties.

(b) A violation of this section is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) if the injury or death to any guide, signal, or service

dog is caused by the person's failure to exercise ordinary care in the control of his or her dog.

(c) A violation of this section is a misdemeanor if the injury or death to any guide, signal, or service dog is caused by the person's reckless disregard in the exercise of control over his or her dog, under circumstances that constitute such a departure from the conduct of a reasonable person as to be incompatible with a proper regard for the safety and life of any guide, signal, or service dog. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year, or by a fine of not less than two thousand five hundred dollars (\$2,500) nor more than five thousand dollars (\$5,000), or both. The court shall consider the costs ordered pursuant to subdivision (d) when determining the amount of any fines.

(d) In any case in which a defendant is convicted of a violation of this section, the defendant shall be ordered to make restitution to the person with a disability who has custody or ownership of the guide, signal, or service dog for any veterinary bills and replacement costs of the dog if it is disabled or killed, or other reasonable costs deemed appropriate by the court. The costs ordered pursuant to this subdivision shall be paid prior to any fines. The person with the disability may apply for compensation by the California Victim Compensation and Government Claims Board pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code, in an amount not to exceed ten thousand dollars (\$10,000).

SEC. 24. Section 600.5 of the Penal Code is amended to read:

600.5. (a) Any person who intentionally causes injury to or the death of any guide, signal, or service dog, as defined by Section 54.1 of the Civil Code, while the

dog is in discharge of its duties, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both a fine and imprisonment. The court shall consider the costs ordered pursuant to subdivision (b) when determining the amount of any fines.

(b) In any case in which a defendant is convicted of a violation of this section, the defendant shall be ordered to make restitution to the person with a disability who has custody or ownership of the dog for any veterinary bills and replacement costs of the dog if it is disabled or killed, or other reasonable costs deemed appropriate by the court. The costs ordered pursuant to this subdivision shall be paid prior to any fines. The person with the disability may apply for compensation by the California Victim Compensation and Government Claims Board pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code, in an amount not to exceed ten thousand dollars (\$10,000).

SEC. 25. Section 851.8 of the Penal Code is amended to read:

851.8. (a) In any case where a person has been arrested and no accusatory pleading has been filed, the person arrested may petition the law enforcement agency having jurisdiction over the offense to destroy its records of the arrest. A copy of the petition shall be served upon the prosecuting attorney of the county or city having jurisdiction over the offense. The law enforcement agency having jurisdiction over the offense, upon a determination that the person arrested is factually innocent, shall, with the concurrence of the prosecuting attorney, seal its arrest records, and the petition for relief under this section for three years from the date of the arrest and thereafter destroy its arrest records and the petition. The law enforcement agency having jurisdiction

over the offense shall notify the Department of Justice, and any law enforcement agency that arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent under this subdivision, of the sealing of the arrest records and the reason therefor. The Department of Justice and any law enforcement agency so notified shall forthwith seal their records of the arrest and the notice of sealing for three years from the date of the arrest, and thereafter destroy their records of the arrest and the notice of sealing. The law enforcement agency having jurisdiction over the offense and the Department of Justice shall request the destruction of any records of the arrest which they have given to any local, state, or federal agency or to any other person or entity. Each agency, person, or entity within the State of California receiving the request shall destroy its records of the arrest and the request, unless otherwise provided in this section.

(b) If, after receipt by both the law enforcement agency and the prosecuting attorney of a petition for relief under subdivision (a), the law enforcement agency and prosecuting attorney do not respond to the petition by accepting or denying the petition within 60 days after the running of the relevant statute of limitations or within 60 days after receipt of the petition in cases where the statute of limitations has previously lapsed, then the petition shall be deemed to be denied. In any case where the petition of an arrestee to the law enforcement agency to have an arrest record destroyed is denied, petition may be made to the superior court that would have had territorial jurisdiction over the matter. A copy of the petition shall be served on the law enforcement agency and the prosecuting attorney of the county or city having jurisdiction over the offense at least 10 days prior to the hearing thereon. The

prosecuting attorney and the law enforcement agency through the district attorney may present evidence to the court at the hearing. Notwithstanding Section 1538.5 or 1539, any judicial determination of factual innocence made pursuant to this section may be heard and determined upon declarations, affidavits, police reports, or any other evidence submitted by the parties which is material, relevant, and reliable. A finding of factual innocence and an order for the sealing and destruction of records pursuant to this section shall not be made unless the court finds that no reasonable cause exists to believe that the arrestee committed the offense for which the arrest was made. In any court hearing to determine the factual innocence of a party, the initial burden of proof shall rest with the petitioner to show that no reasonable cause exists to believe that the arrestee committed the offense for which the arrest was made. If the court finds that this showing of no reasonable cause has been made by the petitioner, then the burden of proof shall shift to the respondent to show that a reasonable cause exists to believe that the petitioner committed the offense for which the arrest was made. If the court finds the arrestee to be factually innocent of the charges for which the arrest was made, then the court shall order the law enforcement agency having jurisdiction over the offense, the Department of Justice, and any law enforcement agency which arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent under this section to seal their records of the arrest and the court order to seal and destroy the records, for three years from the date of the arrest and thereafter to destroy their records of the arrest and the court order to seal and destroy those records. The court shall also order the law enforcement agency having jurisdiction over the offense and the Department of Justice to request the destruction of any records

of the arrest which they have given to any local, state, or federal agency, person or entity. Each state or local agency, person or entity within the State of California receiving such a request shall destroy its records of the arrest and the request to destroy the records, unless otherwise provided in this section. The court shall give to the petitioner a copy of any court order concerning the destruction of the arrest records.

(c) In any case where a person has been arrested, and an accusatory pleading has been filed, but where no conviction has occurred, the defendant may, at any time after dismissal of the action, petition the court that dismissed the action for a finding that the defendant is factually innocent of the charges for which the arrest was made. A copy of the petition shall be served on the prosecuting attorney of the county or city in which the accusatory pleading was filed at least 10 days prior to the hearing on the petitioner's factual innocence. The prosecuting attorney may present evidence to the court at the hearing. The hearing shall be conducted as provided in subdivision (b). If the court finds the petitioner to be factually innocent of the charges for which the arrest was made, then the court shall grant the relief as provided in subdivision (b).

(d) In any case where a person has been arrested and an accusatory pleading has been filed, but where no conviction has occurred, the court may, with the concurrence of the prosecuting attorney, grant the relief provided in subdivision (b) at the time of the dismissal of the accusatory pleading.

(e) Whenever any person is acquitted of a charge and it appears to the judge presiding at the trial at which the acquittal occurred that the defendant was factually innocent of the charge, the judge may grant the relief provided in subdivision (b).

(f) In any case where a person who has been arrested is granted relief pursuant to subdivision (a) or (b), the law enforcement agency having jurisdiction over the offense or court shall issue a written declaration to the arrestee stating that it is the determination of the law enforcement agency having jurisdiction over the offense or court that the arrestee is factually innocent of the charges for which the person was arrested and that the arrestee is thereby exonerated. Thereafter, the arrest shall be deemed not to have occurred and the person may answer accordingly any question relating to its occurrence.

(g) The Department of Justice shall furnish forms to be utilized by persons applying for the destruction of their arrest records and for the written declaration that one person was found factually innocent under subdivisions (a) and (b).

(h) Documentation of arrest records destroyed pursuant to subdivision (a), (b), (c), (d), or (e) that are contained in investigative police reports shall bear the notation "Exonerated" whenever reference is made to the arrestee. The arrestee shall be notified in writing by the law enforcement agency having jurisdiction over the offense of the sealing and destruction of the arrest records pursuant to this section.

(i) (1) Any finding that an arrestee is factually innocent pursuant to subdivision (a), (b), (c), (d), or (e) shall not be admissible as evidence in any action.

(2) Notwithstanding paragraph (1), a finding that an arrestee is factually innocent pursuant to subdivisions (a) to (e), inclusive, shall be admissible as evidence at a hearing before the California Victim Compensation and Government Claims Board.

(j) Destruction of records of arrest pursuant to subdivision (a), (b), (c), (d), or (e) shall be accomplished by permanent obliteration of all entries or notations upon

the records pertaining to the arrest, and the record shall be prepared again so that it appears that the arrest never occurred. However, where (1) the only entries on the record pertain to the arrest and (2) the record can be destroyed without necessarily affecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(k) No records shall be destroyed pursuant to subdivision (a), (b), (c), (d), or (e) if the arrestee or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of the records has received a certified copy of the complaint in the civil action, until the civil action has been resolved. Any records sealed pursuant to this section by the court in the civil actions, upon a showing of good cause, may be opened and submitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person authorized by the court. Immediately following the final resolution of the civil action, records subject to subdivision (a), (b), (c), (d), or (e) shall be sealed and destroyed pursuant to subdivision (a), (b), (c), (d), or (e).

(l) For arrests occurring on or after January 1, 1981, and for accusatory pleadings filed on or after January 1, 1981, petitions for relief under this section may be filed up to two years from the date of the arrest or filing of the accusatory pleading, whichever is later. Until January 1, 1983, petitioners can file for relief under this section for arrests which occurred or accusatory pleadings which were filed up to five years prior to the effective date of the statute. Any time restrictions on filing for relief under this section

may be waived upon a showing of good cause by the petitioner and in the absence of prejudice.

(m) Any relief which is available to a petitioner under this section for an arrest shall also be available for an arrest which has been deemed to be or described as a detention under Section 849.5 or 851.6.

(n) This section shall not apply to any offense which is classified as an infraction.

(o) (1) This section shall be repealed on the effective date of a final judgment based on a claim under the California or United States Constitution holding that evidence that is relevant, reliable, and material may not be considered for purposes of a judicial determination of factual innocence under this section. For purposes of this subdivision, a judgment by the appellate division of a superior court is a final judgment if it is published and if it is not reviewed on appeal by a court of appeal. A judgment of a court of appeal is a final judgment if it is published and if it is not reviewed by the California Supreme Court.

(2) Any decision referred to in this subdivision shall be stayed pending appeal.

(3) If not otherwise appealed by a party to the action, any decision referred to in this subdivision which is a judgment by the appellate division of the superior court shall be appealed by the Attorney General.

(p) A judgment of the court under subdivision (b), (c), (d), or (e) is subject to the following appeal path:

(1) In a felony case, appeal is to the court of appeal.

(2) In a misdemeanor case, or in a case in which no accusatory pleading was filed, appeal is to the appellate division of the superior court.

SEC. 26. Section 851.865 of the Penal Code is amended to read:

851.865. (a) If a person has secured a declaration of factual innocence from the court pursuant to Section 851.8 or 851.86, the finding shall be sufficient grounds for payment of compensation for a claim made pursuant to Section 4900. Upon application by the person, the California Victim Compensation and Government Claims Board shall, without a hearing, recommend to the Legislature that an appropriation be made and the claim paid pursuant to Section 4904.

(b) If the declaration of factual innocence is granted pursuant to a stipulation of the prosecutor, the duty of the board to, without a hearing, recommend to the Legislature payment of the claim, shall apply.

SEC. 27. Section 1191.15 of the Penal Code is amended to read:

1191.15. (a) The court may permit the victim of any crime, his or her parent or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, to file with the court a written, audiotaped, or videotaped statement, or statement stored on a CD-ROM, DVD, or any other recording medium acceptable to the court, expressing his or her views concerning the crime, the person responsible, and the need for restitution, in lieu of or in addition to the person personally appearing at the time of judgment and sentence. The court shall consider the statement filed with the court prior to imposing judgment and sentence.

Whenever an audio or video statement or statement stored on a CD-ROM, DVD, or other medium is filed with the court, a written transcript of the statement shall also be provided by the person filing the statement, and shall be made available as a public record of the court after the judgment and sentence have been imposed.

(b) Whenever a written, audio, or video statement or statement stored on a CD-ROM, DVD, or other medium is filed with the court, it shall remain sealed until the time set for imposition of judgment and sentence except that the court, the probation officer, and counsel for the parties may view and listen to the statement not more than two court days prior to the date set for imposition of judgment and sentence.

(c) A person or a court shall not permit any person to duplicate, copy, or reproduce by audio or visual means a statement submitted to the court under the provisions of this section.

(d) Nothing in this section shall be construed to prohibit the prosecutor from representing to the court the views of the victim, his or her parent or guardian, the next of kin, or the California Victim Compensation and Government Claims Board.

(e) In the event the court permits an audio or video statement or statement stored on a CD-ROM, DVD, or other medium to be filed, the court shall not be responsible for providing any equipment or resources needed to assist the victim in preparing the statement.

SEC. 28. Section 1191.2 of the Penal Code is amended to read:

1191.2. In providing notice to the victim pursuant to Section 1191.1, the probation officer shall also provide the victim with information concerning the victim's right to civil recovery against the defendant, the requirement that the court order restitution for the victim, the victim's right to receive a copy of the restitution order from the court and to enforce the restitution order as a civil judgment, the victim's responsibility to furnish the probation department, district attorney, and court with information relevant to his or her losses, and the victim's opportunity to be compensated

from the Restitution Fund if eligible under Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code. This information shall be in the form of written material prepared by the Judicial Council in consultation with the California Victim Compensation and Government Claims Board, shall include the relevant sections of the Penal Code, and shall be provided to each victim for whom the probation officer has a current mailing address.

SEC. 29. Section 1202.4 of the Penal Code is amended to read:

1202.4. (a) (1) It is the intent of the Legislature that a victim of crime who incurs an economic loss as a result of the commission of a crime shall receive restitution directly from a defendant convicted of that crime.

(2) Upon a person being convicted of a crime in the State of California, the court shall order the defendant to pay a fine in the form of a penalty assessment in accordance with Section 1464.

(3) The court, in addition to any other penalty provided or imposed under the law, shall order the defendant to pay both of the following:

(A) A restitution fine in accordance with subdivision (b).

(B) Restitution to the victim or victims, if any, in accordance with subdivision (f), which shall be enforceable as if the order were a civil judgment.

(b) In every case where a person is convicted of a crime, the court shall impose a separate and additional restitution fine, unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record.

(1) The restitution fine shall be set at the discretion of the court and commensurate with the seriousness of the offense. If the person is convicted of a felony, the fine shall

not be less than two hundred forty dollars (\$240) starting on January 1, 2012, two hundred eighty dollars (\$280) starting on January 1, 2013, and three hundred dollars (\$300) starting on January 1, 2014, and not more than ten thousand dollars (\$10,000). If the person is convicted of a misdemeanor, the fine shall not be less than one hundred twenty dollars (\$120) starting on January 1, 2012, one hundred forty dollars (\$140) starting on January 1, 2013, and one hundred fifty dollars (\$150) starting on January 1, 2014, and not more than one thousand dollars (\$1,000).

(2) In setting a felony restitution fine, the court may determine the amount of the fine as the product of the minimum fine pursuant to paragraph (1) multiplied by the number of years of imprisonment the defendant is ordered to serve, multiplied by the number of felony counts of which the defendant is convicted.

(c) The court shall impose the restitution fine unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record. A defendant's inability to pay shall not be considered a compelling and extraordinary reason not to impose a restitution fine. Inability to pay may be considered only in increasing the amount of the restitution fine in excess of the minimum fine pursuant to paragraph (1) of subdivision (b). The court may specify that funds confiscated at the time of the defendant's arrest, except for funds confiscated pursuant to Section 11469 of the Health and Safety Code, be applied to the restitution fine if the funds are not exempt for spousal or child support or subject to any other legal exemption.

(d) In setting the amount of the fine pursuant to subdivision (b) in excess of the minimum fine pursuant to paragraph (1) of subdivision (b), the court shall consider any relevant factors, including, but not limited to, the defendant's inability to pay, the

seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the defendant as a result of the crime, the extent to which any other person suffered losses as a result of the crime, and the number of victims involved in the crime. Those losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the crime. Consideration of a defendant's inability to pay may include his or her future earning capacity. A defendant shall bear the burden of demonstrating his or her inability to pay. Express findings by the court as to the factors bearing on the amount of the fine shall not be required. A separate hearing for the fine shall not be required.

(e) The restitution fine shall not be subject to penalty assessments authorized in Section 1464 or Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, or the state surcharge authorized in Section 1465.7, and shall be deposited in the Restitution Fund in the State Treasury.

(f) Except as provided in subdivisions (q) and (r), in every case in which a victim has suffered economic loss as a result of the defendant's conduct, the court shall require that the defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or any other showing to the court. If the amount of loss cannot be ascertained at the time of sentencing, the restitution order shall include a provision that the amount shall be determined at the direction of the court. The court shall order full restitution unless it finds compelling and extraordinary reasons for not doing so and states them on the record. The court may specify that funds confiscated at the time of the defendant's arrest, except for funds confiscated pursuant to Section 11469 of the Health and Safety

Code, be applied to the restitution order if the funds are not exempt for spousal or child support or subject to any other legal exemption.

(1) The defendant has the right to a hearing before a judge to dispute the determination of the amount of restitution. The court may modify the amount, on its own motion or on the motion of the district attorney, the victim or victims, or the defendant. If a motion is made for modification of a restitution order, the victim shall be notified of that motion at least 10 days prior to the proceeding held to decide the motion. A victim at a restitution hearing or modification hearing described in this paragraph may testify by live, two-way audio and video transmission, if testimony by live, two-way audio and video transmission is available at the court.

(2) Determination of the amount of restitution ordered pursuant to this subdivision shall not be affected by the indemnification or subrogation rights of a third party. Restitution ordered pursuant to this subdivision shall be ordered to be deposited to the Restitution Fund to the extent that the victim, as defined in subdivision (k), has received assistance from the California Victim Compensation and Government Claims Board pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

(3) To the extent possible, the restitution order shall be prepared by the sentencing court, shall identify each victim and each loss to which it pertains, and shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct, including, but not limited to, all of the following:

(A) Full or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.

(B) Medical expenses.

(C) Mental health counseling expenses.

(D) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, while caring for the injured minor. Lost wages shall include commission income as well as base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

(E) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution. Lost wages shall include commission income as well as base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

(F) Noneconomic losses, including, but not limited to, psychological harm, for felony violations of Section 288.

(G) Interest, at the rate of 10 percent per annum, that accrues as of the date of sentencing or loss, as determined by the court.

(H) Actual and reasonable attorney's fees and other costs of collection accrued by a private entity on behalf of the victim.

(I) Expenses incurred by an adult victim in relocating away from the defendant, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. Expenses incurred pursuant to this section shall be verified by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(J) Expenses to install or increase residential security incurred related to a violent felony, as defined in subdivision (c) of Section 667.5, including, but not limited to, a home security device or system, or replacing or increasing the number of locks.

(K) Expenses to retrofit a residence or vehicle, or both, to make the residence accessible to or the vehicle operational by the victim, if the victim is permanently disabled, whether the disability is partial or total, as a direct result of the crime.

(L) Expenses for a period of time reasonably necessary to make the victim whole, for the costs to monitor the credit report of, and for the costs to repair the credit of, a victim of identity theft, as defined in Section 530.5.

(4) (A) If, as a result of the defendant's conduct, the Restitution Fund has provided assistance to or on behalf of a victim or derivative victim pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code, the amount of assistance provided shall be presumed to be a direct result of the defendant's criminal conduct and shall be included in the amount of the restitution ordered.

(B) The amount of assistance provided by the Restitution Fund shall be established by copies of bills submitted to the California Victim Compensation and

~~Government Claims~~ Board reflecting the amount paid by the board and whether the services for which payment was made were for medical or dental expenses, funeral or burial expenses, mental health counseling, wage or support losses, or rehabilitation. Certified copies of these bills provided by the board and redacted to protect the privacy and safety of the victim or any legal privilege, together with a statement made under penalty of perjury by the custodian of records that those bills were submitted to and were paid by the board, shall be sufficient to meet this requirement.

(C) If the defendant offers evidence to rebut the presumption established by this paragraph, the court may release additional information contained in the records of the board to the defendant only after reviewing that information in camera and finding that the information is necessary for the defendant to dispute the amount of the restitution order.

(5) Except as provided in paragraph (6), in any case in which an order may be entered pursuant to this subdivision, the defendant shall prepare and file a disclosure identifying all assets, income, and liabilities in which the defendant held or controlled a present or future interest as of the date of the defendant's arrest for the crime for which restitution may be ordered. The financial disclosure statements shall be made available to the victim and the board pursuant to Section 1214. The disclosure shall be signed by the defendant upon a form approved or adopted by the Judicial Council for the purpose of facilitating the disclosure. A defendant who willfully states as true a material matter that he or she knows to be false on the disclosure required by this subdivision is guilty of a misdemeanor, unless this conduct is punishable as perjury or another provision of law provides for a greater penalty.

(6) A defendant who fails to file the financial disclosure required in paragraph (5), but who has filed a financial affidavit or financial information pursuant to subdivision (c) of Section 987, shall be deemed to have waived the confidentiality of that affidavit or financial information as to a victim in whose favor the order of restitution is entered pursuant to subdivision (f). The affidavit or information shall serve in lieu of the financial disclosure required in paragraph (5), and paragraphs (7) to (10), inclusive, shall not apply.

(7) Except as provided in paragraph (6), the defendant shall file the disclosure with the clerk of the court no later than the date set for the defendant's sentencing, unless otherwise directed by the court. The disclosure may be inspected or copied as provided by subdivision (b), (c), or (d) of Section 1203.05.

(8) In its discretion, the court may relieve the defendant of the duty under paragraph (7) of filing with the clerk by requiring that the defendant's disclosure be submitted as an attachment to, and be available to, those authorized to receive the following:

(A) A report submitted pursuant to subparagraph (C) of paragraph (2) of subdivision (b) of Section 1203 or subdivision (g) of Section 1203.

(B) A stipulation submitted pursuant to paragraph (4) of subdivision (b) of Section 1203.

(C) A report by the probation officer, or information submitted by the defendant applying for a conditional sentence pursuant to subdivision (d) of Section 1203.

(9) The court may consider a defendant's unreasonable failure to make a complete disclosure pursuant to paragraph (5) as any of the following:

(A) A circumstance in aggravation of the crime in imposing a term under subdivision (b) of Section 1170.

(B) A factor indicating that the interests of justice would not be served by admitting the defendant to probation under Section 1203.

(C) A factor indicating that the interests of justice would not be served by conditionally sentencing the defendant under Section 1203.

(D) A factor indicating that the interests of justice would not be served by imposing less than the maximum fine and sentence fixed by law for the case.

(10) A defendant's failure or refusal to make the required disclosure pursuant to paragraph (5) shall not delay entry of an order of restitution or pronouncement of sentence. In appropriate cases, the court may do any of the following:

(A) Require the defendant to be examined by the district attorney pursuant to subdivision (h).

(B) If sentencing the defendant under Section 1170, provide that the victim shall receive a copy of the portion of the probation report filed pursuant to Section 1203.10 concerning the defendant's employment, occupation, finances, and liabilities.

(C) If sentencing the defendant under Section 1203, set a date and place for submission of the disclosure required by paragraph (5) as a condition of probation or suspended sentence.

(11) If a defendant has any remaining unpaid balance on a restitution order or fine 120 days prior to his or her scheduled release from probation or 120 days prior to his or her completion of a conditional sentence, the defendant shall prepare and file a new and updated financial disclosure identifying all assets, income, and liabilities in

which the defendant holds or controls or has held or controlled a present or future interest during the defendant's period of probation or conditional sentence. The financial disclosure shall be made available to the victim and the board pursuant to Section 1214. The disclosure shall be signed and prepared by the defendant on the same form as described in paragraph (5). A defendant who willfully states as true a material matter that he or she knows to be false on the disclosure required by this subdivision is guilty of a misdemeanor, unless this conduct is punishable as perjury or another provision of law provides for a greater penalty. The financial disclosure required by this paragraph shall be filed with the clerk of the court no later than 90 days prior to the defendant's scheduled release from probation or completion of the defendant's conditional sentence.

(12) In cases where an employer is convicted of a crime against an employee, a payment to the employee or the employee's dependent that is made by the employer's workers' compensation insurance carrier shall not be used to offset the amount of the restitution order unless the court finds that the defendant substantially met the obligation to pay premiums for that insurance coverage.

(g) The court shall order full restitution unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record. A defendant's inability to pay shall not be considered a compelling and extraordinary reason not to impose a restitution order, nor shall inability to pay be a consideration in determining the amount of a restitution order.

(h) The district attorney may request an order of examination pursuant to the procedures specified in Article 2 (commencing with Section 708.110) of Chapter 6 of

Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, in order to determine the defendant's financial assets for purposes of collecting on the restitution order.

(i) A restitution order imposed pursuant to subdivision (f) shall be enforceable as if the order were a civil judgment.

(j) The making of a restitution order pursuant to subdivision (f) shall not affect the right of a victim to recovery from the Restitution Fund as otherwise provided by law, except to the extent that restitution is actually collected pursuant to the order. Restitution collected pursuant to this subdivision shall be credited to any other judgments for the same losses obtained against the defendant arising out of the crime for which the defendant was convicted.

(k) For purposes of this section, "victim" shall include all of the following:

(1) The immediate surviving family of the actual victim.

(2) A corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity when that entity is a direct victim of a crime.

(3) A person who has sustained economic loss as the result of a crime and who satisfies any of the following conditions:

(A) At the time of the crime was the parent, grandparent, sibling, spouse, child, or grandchild of the victim.

(B) At the time of the crime was living in the household of the victim.

(C) At the time of the crime was a person who had previously lived in the household of the victim for a period of not less than two years in a relationship substantially similar to a relationship listed in subparagraph (A).

(D) Is another family member of the victim, including, but not limited to, the victim's fiancé or fiancée, and who witnessed the crime.

(E) Is the primary caretaker of a minor victim.

(4) A person who is eligible to receive assistance from the Restitution Fund pursuant to Chapter 5 (commencing with Section 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

(5) A governmental entity that is responsible for repairing, replacing, or restoring public or privately owned property that has been defaced with graffiti or other inscribed material, as defined in subdivision (e) of Section 594, and that has sustained an economic loss as the result of a violation of Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7.

(l) At its discretion, the board of supervisors of a county may impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which shall be deposited in the general fund of the county.

(m) In every case in which the defendant is granted probation, the court shall make the payment of restitution fines and orders imposed pursuant to this section a condition of probation. Any portion of a restitution order that remains unsatisfied after a defendant is no longer on probation shall continue to be enforceable by a victim pursuant to Section 1214 until the obligation is satisfied.

(n) If the court finds and states on the record compelling and extraordinary reasons why a restitution fine or full restitution order should not be required, the court

shall order, as a condition of probation, that the defendant perform specified community service, unless it finds and states on the record compelling and extraordinary reasons not to require community service in addition to the finding that restitution should not be required. Upon revocation of probation, the court shall impose restitution pursuant to this section.

(o) The provisions of Section 13963 of the Government Code shall apply to restitution imposed pursuant to this section.

(p) The court clerk shall notify the California Victim Compensation and Government Claims Board within 90 days of an order of restitution being imposed if the defendant is ordered to pay restitution to the board due to the victim receiving compensation from the Restitution Fund. Notification shall be accomplished by mailing a copy of the court order to the board, which may be done periodically by bulk mail or email.

(q) Upon conviction for a violation of Section 236.1, the court shall, in addition to any other penalty or restitution, order the defendant to pay restitution to the victim in a case in which a victim has suffered economic loss as a result of the defendant's conduct. The court shall require that the defendant make restitution to the victim or victims in an amount established by court order, based on the amount of loss claimed by the victim or victims or another showing to the court. In determining restitution pursuant to this section, the court shall base its order upon the greater of the following: the gross value of the victim's labor or services based upon the comparable value of similar services in the labor market in which the offense occurred, or the value of the victim's labor as guaranteed under California law, or the actual income derived by the

defendant from the victim's labor or services or any other appropriate means to provide reparations to the victim.

(r) (1) In addition to any other penalty or fine, the court shall order a person who has been convicted of a violation of Section 350, 653h, 653s, 653u, 653w, or 653aa that involves a recording or audiovisual work to make restitution to an owner or lawful producer, or trade association acting on behalf of the owner or lawful producer, of a phonograph record, disc, wire, tape, film, or other device or article from which sounds or visual images are derived that suffered economic loss resulting from the violation. The order of restitution shall be based on the aggregate wholesale value of lawfully manufactured and authorized devices or articles from which sounds or visual images are derived corresponding to the number of nonconforming devices or articles involved in the offense, unless a higher value can be proved in the case of (A) an unreleased audio work, or (B) an audiovisual work that, at the time of unauthorized distribution, has not been made available in copies for sale to the general public in the United States on a digital versatile disc. For purposes of this subdivision, possession of nonconforming devices or articles intended for sale constitutes actual economic loss to an owner or lawful producer in the form of displaced legitimate wholesale purchases. The order of restitution shall also include reasonable costs incurred as a result of an investigation of the violation undertaken by the owner, lawful producer, or trade association acting on behalf of the owner or lawful producer. "Aggregate wholesale value" means the average wholesale value of lawfully manufactured and authorized sound or audiovisual recordings. Proof of the specific wholesale value of each nonconforming device or article is not required.

(2) As used in this subdivision, “audiovisual work” and “recording” shall have the same meaning as in Section 653w.

SEC. 30. Section 1202.41 of the Penal Code is amended to read:

1202.41. (a) (1) Notwithstanding Section 977 or any other law, if a defendant is currently incarcerated in a state prison with two-way audiovideo communication capability, the Department of Corrections, at the request of the California Victim Compensation and Government Claims Board, may collaborate with a court in any county to arrange for a hearing to impose or amend a restitution order, if the victim has received assistance pursuant to Article 5 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, to be conducted by two-way electronic audiovideo communication between the defendant and the courtroom in lieu of the defendant’s physical presence in the courtroom, provided the county has agreed to make the necessary equipment available.

(2) Nothing in this subdivision shall be interpreted to eliminate the authority of the court to issue an order requiring the defendant to be physically present in the courtroom in those cases where the court finds circumstances that require the physical presence of the defendant in the courtroom.

(3) In lieu of the physical presence of the defendant’s counsel at the institution with the defendant, the court and the Department of Corrections shall establish a confidential telephone and facsimile transmission line between the court and the institution for communication between the defendant’s counsel in court and the defendant at the institution. In this case, counsel for the defendant shall not be required to be physically present at the institution during the hearing via electronic audiovideo

communication. Nothing in this subdivision shall be construed to prohibit the physical presence of the defense counsel with the defendant at the state prison.

(b) If an inmate who is not incarcerated in a state prison with two-way audiovideo communication capability or ward does not waive his or her right to attend a restitution hearing for the amendment of a restitution order, the California Victim Compensation ~~and Government Claims~~ Board shall determine if the cost of holding the hearing is justified. If the board determines that the cost of holding the hearing is not justified, the amendment of the restitution order affecting that inmate or ward shall not be pursued at that time.

(c) Nothing in this section shall be construed to prohibit an individual or district attorney's office from independently pursuing the imposition or amendment of a restitution order that may result in a hearing, regardless of whether the victim has received assistance pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

SEC. 31. Section 1214 of the Penal Code is amended to read:

1214. (a) If the judgment is for a fine, including a restitution fine ordered pursuant to Section 1202.4, 1202.44, or 1202.45, or Section 1203.04 as operative on or before August 2, 1995, or Section 13967 of the Government Code, as operative on or before September 28, 1994, with or without imprisonment, or a diversion restitution fee ordered pursuant to Section 1001.90, the judgment may be enforced in the manner provided for the enforcement of money judgments generally. Any portion of a restitution fine or restitution fee that remains unsatisfied after a defendant is no longer on probation, parole, postrelease community supervision pursuant to Section 3451, or mandatory

supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, after a term in custody pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section 1170, or after completing diversion is enforceable by the California Victim Compensation and Government Claims Board pursuant to this section. Notwithstanding any other provision of law prohibiting disclosure, the state, as defined in Section 900.6 of the Government Code, a local public entity, as defined in Section 900.4 of the Government Code, or any other entity, may provide the California Victim Compensation and Government Claims Board any and all information to assist in the collection of unpaid portions of a restitution fine for terminated probation or parole cases, or of a restitution fee for completed diversion cases. For purposes of the preceding sentence, “state, as defined in Section 900.6 of the Government Code,” and “any other entity” shall not include the Franchise Tax Board. A local collection program may continue to collect restitution fines and restitution orders once a defendant is no longer on probation, postrelease community supervision, or mandatory supervision or after a term in custody pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section 1170.

(b) In any case in which a defendant is ordered to pay restitution, the order to pay restitution (1) is deemed a money judgment if the defendant was informed of his or her right to have a judicial determination of the amount and was provided with a hearing, waived a hearing, or stipulated to the amount of the restitution ordered, and (2) shall be fully enforceable by a victim as if the restitution order were a civil judgment, and enforceable in the same manner as is provided for the enforcement of any other money judgment. Upon the victim’s request, the court shall provide the victim in whose

favor the order of restitution is entered with a certified copy of that order and a copy of the defendant's disclosure pursuant to paragraph (5) of subdivision (f) of Section 1202.4, affidavit or information pursuant to paragraph (6) of subdivision (f) of Section 1202.4, or report pursuant to paragraph (8) of subdivision (f) of Section 1202.4. The court also shall provide this information to the district attorney upon request in connection with an investigation or prosecution involving perjury or the veracity of the information contained within the defendant's financial disclosure. In addition, upon request, the court shall provide the California Victim Compensation and Government Claims Board with a certified copy of any order imposing a restitution fine or order and a copy of the defendant's disclosure pursuant to paragraph (5) of subdivision (f) of Section 1202.4, affidavit or information pursuant to paragraph (6) of subdivision (f) of Section 1202.4, or report pursuant to paragraph (8) of subdivision (f) of Section 1202.4. A victim shall have access to all resources available under the law to enforce the restitution order, including, but not limited to, access to the defendant's financial records, use of wage garnishment and lien procedures, information regarding the defendant's assets, and the ability to apply for restitution from any fund established for the purpose of compensating victims in civil cases. Any portion of a restitution order that remains unsatisfied after a defendant is no longer on probation, parole, postrelease community supervision under Section 3451, or mandatory supervision imposed pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170 or after a term in custody pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section 1170 is enforceable by the victim pursuant to this section. Victims and the California Victim Compensation and Government Claims Board shall

inform the court whenever an order to pay restitution is satisfied. A local collection program may continue to enforce victim restitution orders once a defendant is no longer on probation, postrelease community supervision, or mandatory supervision or after completion of a term in custody pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section 1170.

(c) A defendant who owes a restitution fine, a restitution order, or any portion thereof, and who is released from the custody of a county jail facility after a term in custody pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section 1170 shall have a continuing obligation to pay the restitution fine or restitution order in full.

(d) Except as provided in subdivision (d), and notwithstanding the amount in controversy limitation of Section 85 of the Code of Civil Procedure, a restitution order or restitution fine that was imposed pursuant to Section 1202.4 in any of the following cases may be enforced in the same manner as a money judgment in a limited civil case:

- (1) In a misdemeanor case.
- (2) In a case involving violation of a city or town ordinance.
- (3) In a noncapital criminal case where the court has received a plea of guilty or nolo contendere.

(e) Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure shall not apply to any of the following:

- (1) A judgment for court-ordered fines, forfeitures, penalties, fees, or assessments.

(2) A restitution fine or restitution order imposed pursuant to Section 1202.4, 1202.44, or 1202.45, or Section 1203.04, as operative on or before August 2, 1995, or Section 13967 of the Government Code, as operative on or before September 28, 1994.

(3) A diversion restitution fee ordered pursuant to Section 1001.90.

SEC. 32. Section 1463.02 of the Penal Code is amended to read:

1463.02. (a) On or before June 30, 2011, the Judicial Council shall establish a task force to evaluate criminal and traffic-related court-ordered debts imposed against adult and juvenile offenders. The task force shall be comprised of the following members:

- (1) Two members appointed by the California State Association of Counties.
- (2) Two members appointed by the League of California Cities.
- (3) Two court executives, two judges, and two Administrative Office of the Courts employees appointed by the Judicial Council.
- (4) One member appointed by the Controller.
- (5) One member appointed by the Franchise Tax Board.
- (6) One member appointed by the California Victim Compensation and Government Claims Board.
- (7) One member appointed by the Department of Corrections and Rehabilitation.
- (8) One member appointed by the Department of Finance.
- (9) One member appointed by each house of the Legislature.
- (10) A county public defender and a city attorney appointed by the Speaker of the Assembly.

(11) A defense attorney in private practice and a district attorney appointed by the Senate Committee on Rules.

(b) The Judicial Council shall designate a chairperson for the task force. The task force shall, among other duties, do all of the following:

(1) Identify all criminal and traffic-related court-ordered fees, fines, forfeitures, penalties, and assessments imposed under law.

(2) Identify the distribution of revenue derived from those debts and the expenditures made by those entities that benefit from the revenues.

(3) Consult with state and local entities that would be affected by a simplification and consolidation of criminal and traffic-related court-ordered debts.

(4) Evaluate and make recommendations to the Judicial Council and the Legislature for consolidating and simplifying the imposition of criminal and traffic-related court-ordered debts and the distribution of the revenue derived from those debts with the goal of improving the process for those entities that benefit from the revenues, and recommendations, if any, for adjustment to the court-ordered debts.

(c) The task force also shall document recent annual revenues from the various penalty assessments and surcharges and, to the extent feasible, evaluate the extent to which the amount of each penalty assessment and surcharge impacts total annual revenues, imposition of criminal sentences, and the actual amounts assessed.

(d) The task force also shall evaluate and make recommendations to the Judicial Council and the Legislature on or before June 30, 2011, regarding the priority in which court-ordered debts should be satisfied and the use of comprehensive collection

programs authorized pursuant to Section 1463.007, including associated cost-recovery practices.

SEC. 33. Section 1485.5 of the Penal Code is amended to read:

1485.5. (a) If the district attorney or Attorney General stipulates to or does not contest the factual allegations underlying one or more of the grounds for granting a writ of habeas corpus or a motion to vacate a judgment, the facts underlying the basis for the court's ruling or order shall be binding on the Attorney General, the factfinder, and the California Victim Compensation and Government Claims Board.

(b) The district attorney shall provide notice to the Attorney General prior to entering into a stipulation of facts that will be the basis for the granting of a writ of habeas corpus or a motion to vacate a judgment.

(c) The express factual findings made by the court, including credibility determinations, in considering a petition for habeas corpus, a motion to vacate judgment pursuant to Section 1473.6, or an application for a certificate of factual innocence, shall be binding on the Attorney General, the factfinder, and the California Victim Compensation and Government Claims Board.

(d) For the purposes of this section, "express factual findings" are findings established as the basis for the court's ruling or order.

(e) For purposes of this section, "court" is defined as a state or federal court.

SEC. 34. Section 1485.55 of the Penal Code is amended to read:

1485.55. (a) In a contested proceeding, if the court grants a writ of habeas corpus concerning a person who is unlawfully imprisoned or restrained, or when, pursuant to Section 1473.6, the court vacates a judgment on the basis of new evidence

concerning a person who is no longer unlawfully imprisoned or restrained, and if the court finds that new evidence on the petition points unerringly to innocence, that finding shall be binding on the California Victim Compensation and Government Claims Board for a claim presented to the board, and upon application by the person, the board shall, without a hearing, recommend to the Legislature that an appropriation be made and the claim paid pursuant to Section 4904.

(b) If the court grants a writ of habeas corpus concerning a person who is unlawfully imprisoned or restrained on any ground other than new evidence that points unerringly to innocence or actual innocence, the petitioner may move for a finding of innocence by a preponderance of the evidence that the crime with which he or she was charged was either not committed at all or, if committed, was not committed by him or her.

(c) If the court vacates a judgment pursuant to Section 1473.6, on any ground other than new evidence that points unerringly to innocence or actual innocence, the petitioner may move for a finding of innocence by a preponderance of the evidence that the crime with which he or she was charged was either not committed at all or, if committed, was not committed by him or her.

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

(e) No presumption shall exist in any other proceeding for failure to make a motion or obtain a favorable ruling pursuant to subdivision (b) or (c).

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

(g) For the purposes of this section, “new evidence” means evidence that was not available or known at the time of trial that completely undermines the prosecution case and points unerringly to innocence.

SEC. 35. Section 2085.5 of the Penal Code is amended to read:

2085.5. (a) In any case in which a prisoner owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the Secretary of the Department of Corrections and Rehabilitation shall deduct a minimum of 20 percent or the balance owing on the fine amount, whichever is less, up to a maximum of 50 percent from the wages and trust account deposits of a prisoner, unless prohibited by federal law, and shall transfer that amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. The amount deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(b) (1) When a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, in any case in which a prisoner owes a restitution

fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the agency designated by the board of supervisors in the county where the prisoner is incarcerated is authorized to deduct a minimum of 20 percent or the balance owing on the fine amount, whichever is less, up to a maximum of 50 percent from the county jail equivalent of wages and trust account deposits of a prisoner, unless prohibited by federal law, and shall transfer that amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. The amount deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(2) If the board of supervisors designates the county sheriff as the collecting agency, the board of supervisors shall first obtain the concurrence of the county sheriff.

(c) In any case in which a prisoner owes a restitution order imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (f) of Section 1202.4, the Secretary of the Department of Corrections and Rehabilitation shall deduct a minimum of 20 percent or the balance owing on the order amount, whichever is less, up to a maximum of 50 percent from the wages and trust account deposits of a prisoner, unless prohibited by federal law. The secretary shall transfer that amount to the California Victim Compensation and Government Claims Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant

to that program. The sentencing court shall be provided a record of the payments made to victims and of the payments deposited to the Restitution Fund pursuant to this subdivision.

(d) When a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, in any case in which a prisoner owes a restitution order imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the agency designated by the board of supervisors in the county where the prisoner is incarcerated is authorized to deduct a minimum of 20 percent or the balance owing on the order amount, whichever is less, up to a maximum of 50 percent from the county jail equivalent of wages and trust account deposits of a prisoner, unless prohibited by federal law. The agency shall transfer that amount to the California Victim Compensation and Government Claims Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program, or may pay the victim directly. The sentencing court shall be provided a record of the payments made to the victims and of the payments deposited to the Restitution Fund pursuant to this subdivision.

(e) The secretary shall deduct and retain from the wages and trust account deposits of a prisoner, unless prohibited by federal law, an administrative fee that totals 10 percent of any amount transferred to the California Victim Compensation and Government Claims Board pursuant to subdivision (a) or (c). The secretary shall deduct and retain from any prisoner settlement or trial award, an administrative fee that totals

5 percent of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (n), unless prohibited by federal law. The secretary shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution program of the Department of Corrections and Rehabilitation. The secretary, at his or her discretion, may retain any excess funds in the special deposit account for future reimbursement of the department's administrative and support costs for the restitution program or may transfer all or part of the excess funds for deposit in the Restitution Fund.

(f) When a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated is authorized to deduct and retain from the county jail equivalent of wages and trust account deposits of a prisoner, unless prohibited by federal law, an administrative fee that totals 10 percent of any amount transferred to the California Victim Compensation and Government Claims Board pursuant to subdivision (b) or (d). The agency is authorized to deduct and retain from a prisoner settlement or trial award an administrative fee that totals 5 percent of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (n), unless prohibited by federal law. Upon release from custody pursuant to subdivision (h) of Section 1170, the agency is authorized to charge a fee to cover the actual administrative cost of collection, not to exceed 10 percent of the total amount collected. The agency shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution program of the agency. The agency is authorized to retain any excess funds

in the special deposit account for future reimbursement of the agency's administrative and support costs for the restitution program or may transfer all or part of the excess funds for deposit in the Restitution Fund.

(g) In any case in which a parolee owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the secretary, or, when a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated, may collect from the parolee or, pursuant to Section 2085.6, from a person previously imprisoned in county jail any moneys owing on the restitution fine amount, unless prohibited by federal law. The secretary or the agency shall transfer that amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. The amount deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(h) In any case in which a parolee owes a direct order of restitution, imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or paragraph (3) of subdivision (a) of Section 1202.4, the secretary, or, when a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated or a local collection program, may collect from the

parolee or, pursuant to Section 2085.6, from a person previously imprisoned in county jail any moneys owing, unless prohibited by federal law. The secretary or the agency shall transfer that amount to the California Victim Compensation and Government Claims Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program, or the agency may pay the victim directly. The sentencing court shall be provided a record of the payments made by the offender pursuant to this subdivision.

(i) The secretary, or, when a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated, may deduct and retain from moneys collected from parolees or persons previously imprisoned in county jail an administrative fee that totals 10 percent of any amount transferred to the California Victim Compensation and Government Claims Board pursuant to subdivision (g) or (h), unless prohibited by federal law. The secretary shall deduct and retain from any settlement or trial award of a parolee an administrative fee that totals 5 percent of an amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (n), unless prohibited by federal law. The agency is authorized to deduct and retain from any settlement or trial award of a person previously imprisoned in county jail an administrative fee that totals 5 percent of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (n). The secretary or the agency shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution program of the Department of Corrections and Rehabilitation or the

agency, as applicable. The secretary, at his or her discretion, or the agency may retain any excess funds in the special deposit account for future reimbursement of the department's or agency's administrative and support costs for the restitution program or may transfer all or part of the excess funds for deposit in the Restitution Fund.

(j) When a prisoner has both a restitution fine and a restitution order from the sentencing court, the Department of Corrections and Rehabilitation shall collect the restitution order first pursuant to subdivision (c).

(k) When a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170 and that prisoner has both a restitution fine and a restitution order from the sentencing court, if the agency designated by the board of supervisors in the county where the prisoner is incarcerated collects the fine and order, the agency shall collect the restitution order first pursuant to subdivision (d).

(l) When a parolee has both a restitution fine and a restitution order from the sentencing court, the Department of Corrections and Rehabilitation, or, when the prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated, may collect the restitution order first, pursuant to subdivision (h).

(m) If an inmate is housed at an institution that requires food to be purchased from the institution canteen for unsupervised overnight visits, and if the money for the purchase of this food is received from funds other than the inmate's wages, that money shall be exempt from restitution deductions. This exemption shall apply to the actual amount spent on food for the visit up to a maximum of fifty dollars (\$50) for visits that

include the inmate and one visitor, seventy dollars (\$70) for visits that include the inmate and two or three visitors, and eighty dollars (\$80) for visits that include the inmate and four or more visitors.

(n) Compensatory or punitive damages awarded by trial or settlement to any inmate, parolee, person placed on postrelease community supervision pursuant to Section 3451, or defendant on mandatory supervision imposed pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, in connection with a civil action brought against a federal, state, or local jail, prison, or correctional facility, or any official or agent thereof, shall be paid directly, after payment of reasonable attorney's fees and litigation costs approved by the court, to satisfy any outstanding restitution orders or restitution fines against that person. The balance of the award shall be forwarded to the payee after full payment of all outstanding restitution orders and restitution fines, subject to subdivisions (e) and (i). The Department of Corrections and Rehabilitation shall make all reasonable efforts to notify the victims of the crime for which that person was convicted concerning the pending payment of any compensatory or punitive damages. For any prisoner punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency is authorized to make all reasonable efforts to notify the victims of the crime for which that person was convicted concerning the pending payment of any compensatory or punitive damages.

(o) (1) Amounts transferred to the California Victim Compensation and Government Claims Board for payment of direct orders of restitution shall be paid to the victim within 60 days from the date the restitution revenues are received by the California Victim Compensation and Government Claims Board. If the restitution

payment to a victim is less than twenty-five dollars (\$25), then payment need not be forwarded to that victim until the payment reaches twenty-five dollars (\$25) or when the victim requests payment of the lesser amount.

(2) If a victim cannot be located, the restitution revenues received by the California Victim Compensation and Government Claims Board on behalf of the victim shall be held in trust in the Restitution Fund until the end of the state fiscal year subsequent to the state fiscal year in which the funds were deposited or until the time that the victim has provided current address information, whichever occurs sooner. Amounts remaining in trust at the end of the specified period of time shall revert to the Restitution Fund.

(3) (A) A victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the Department of Corrections and Rehabilitation, which shall verify that moneys were collected on behalf of the victim. Upon receipt of that verified information from the Department of Corrections and Rehabilitation, the California Victim Compensation and Government Claims Board shall transmit the restitution revenues to the victim in accordance with the provisions of subdivision (c) or (h).

(B) A victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the agency designated by the board of supervisors in the county where the prisoner punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170 is incarcerated, which may verify that moneys were collected on behalf of the victim. Upon receipt of that verified information from the agency, the California Victim Compensation and Government

~~Claims~~ Board shall transmit the restitution revenues to the victim in accordance with the provisions of subdivision (d) or (h).

SEC. 36. Section 2085.6 of the Penal Code is amended to read:

2085.6. (a) When a prisoner who owes a restitution fine, or any portion thereof, is subsequently released from the custody of the Department of Corrections and Rehabilitation or a county jail facility, and is subject to postrelease community supervision under Section 3451 or mandatory supervision under subdivision (h) of Section 1170, he or she shall have a continuing obligation to pay the restitution fine in full. The restitution fine obligation and any portion left unsatisfied upon placement in postrelease community supervision or mandatory supervision is enforceable and may be collected, in a manner to be established by the county board of supervisors, by the department or county agency designated by the board of supervisors in the county where the prisoner is released. If a county elects to collect restitution fines, the department or county agency designated by the county board of supervisors shall transfer the amount collected to the California Victim Compensation and Government ~~Claims~~ Board for deposit in the Restitution Fund in the State Treasury.

(b) When a prisoner who owes payment for a restitution order, or any portion thereof, is released from the custody of the Department of Corrections and Rehabilitation or a county jail facility, and is subject to postrelease community supervision under Section 3451 or mandatory supervision under subdivision (h) of Section 1170, he or she shall have a continuing obligation to pay the restitution order in full. The restitution order obligation and any portion left unsatisfied upon placement in postrelease community supervision or mandatory supervision is enforceable and may be collected,

in a manner to be established by the county board of supervisors, by the agency designated by the county board of supervisors in the county where the prisoner is released. If the county elects to collect the restitution order, the agency designated by the county board of supervisors for collection shall transfer the collected amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury or may pay the victim directly. The sentencing court shall be provided a record of payments made to the victim and of the payments deposited into the Restitution Fund.

(c) Any portion of a restitution order or restitution fine that remains unsatisfied after an individual is released from postrelease community supervision or mandatory supervision shall continue to be enforceable by a victim pursuant to Section 1214 until the obligation is satisfied.

(d) At its discretion, a county board of supervisors may impose a fee upon the individual subject to postrelease community supervision or mandatory supervision to cover the actual administrative cost of collecting the restitution fine and the restitution order, not to exceed 10 percent of the amount collected, the proceeds of which shall be deposited into the general fund of the county.

(e) If a county elects to collect both a restitution fine and a restitution order, the amount owed on the restitution order shall be collected before the restitution fine.

(f) If a county elects to collect restitution fines and restitution orders pursuant to this section, the county shall coordinate efforts with the Franchise Tax Board pursuant to Section 19280 of the Revenue and Taxation Code.

(g) Pursuant to Section 1214, the county agency selected by a county board of supervisors to collect restitution fines and restitution orders may collect restitution fines and restitution orders after an individual is no longer on postrelease community supervision or mandatory supervision or after a term in custody pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section 1170.

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

(1) "Restitution fine" means a fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4.

(2) "Restitution order" means an order for restitution to the victim of a crime imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (f) of Section 1202.4.

SEC. 37. Section 4900 of the Penal Code is amended to read:

4900. Any person who, having been convicted of any crime against the state amounting to a felony and imprisoned in the state prison or incarcerated in county jail pursuant to subdivision (h) of Section 1170 for that conviction, is granted a pardon by the Governor for the reason that the crime with which he or she was charged was either not committed at all or, if committed, was not committed by him or her, or who, being innocent of the crime with which he or she was charged for either of the foregoing reasons, shall have served the term or any part thereof for which he or she was imprisoned in state prison or incarcerated in county jail, may, under the conditions

provided under this chapter, present a claim against the state to the California Victim Compensation and Government Claims Board for the pecuniary injury sustained by him or her through the erroneous conviction and imprisonment or incarceration.

SEC. 38. Section 4901 of the Penal Code is amended to read:

4901. (a) A claim under Section 4900, accompanied by a statement of the facts constituting the claim, verified in the manner provided for the verification of complaints in civil actions, is required to be presented by the claimant to the California Victim Compensation and Government Claims Board within a period of two years after judgment of acquittal or after pardon granted, or after release from custody, and no claim not so presented shall be considered by the California Victim Compensation and Government Claims Board.

(b) For purposes of subdivision (a), “release from custody” means release from imprisonment from state prison or from incarceration in county jail when there is no subsequent parole jurisdiction exercised by the Department of Correction and Rehabilitation or postrelease jurisdiction under a community corrections program, or when there is a parole period or postrelease period subject to jurisdiction of a community corrections program, when that period ends.

(c) A person may not file a claim under Section 4900 until 60 days have passed since the date of reversal of conviction or granting of the writ, or while the case is pending upon an initial refiling, or until a complaint or information has been dismissed a single time.

SEC. 39. Section 4902 of the Penal Code is amended to read:

4902. (a) If the provisions of Section 851.865 or 1485.55 apply in any claim, the California Victim Compensation and Government Claims Board shall, within 30 days of the presentation of the claim, calculate the compensation for the claimant pursuant to Section 4904 and recommend to the Legislature payment of that sum. As to any claim to which Section 851.865 or 1485.55 does not apply, the Attorney General shall respond to the claim within 60 days or request an extension of time, upon a showing of good cause.

(b) Upon receipt of a response from the Attorney General, the board shall fix a time and place for the hearing of the claim, and shall mail notice thereof to the claimant and to the Attorney General at least 15 days prior to the time fixed for the hearing. The board shall use reasonable diligence in setting the date for the hearing and shall attempt to set the date for the hearing at the earliest date convenient for the parties and the board.

(c) If the time period for response elapses without a request for extension or a response from the Attorney General pursuant to subdivision (a), the board shall fix a time and place for the hearing of the claim, mail notice thereof to the claimant at least 15 days prior to the time fixed for the hearing, and make a recommendation based on the claimant's verified claim and any evidence presented by him or her.

SEC. 40. Section 4904 of the Penal Code is amended to read:

4904. If the evidence shows that the crime with which the claimant was charged was either not committed at all, or, if committed, was not committed by the claimant, and that the claimant has sustained injury through his or her erroneous conviction and imprisonment, the California Victim Compensation and Government Claims Board

shall report the facts of the case and its conclusions to the next Legislature, with a recommendation that the Legislature make an appropriation for the purpose of indemnifying the claimant for the injury. The amount of the appropriation recommended shall be a sum equivalent to one hundred forty dollars (\$140) per day of incarceration served, and shall include any time spent in custody, including in a county jail, that is considered to be part of the term of incarceration. That appropriation shall not be treated as gross income to the recipient under the Revenue and Taxation Code.

SEC. 41. Section 4905 of the Penal Code is amended to read:

4905. The California Victim Compensation and Government Claims Board shall make up its report and recommendation and shall give to the Controller a statement showing its recommendations for appropriations under this chapter, as provided by law in cases of other claimants against the state for which no appropriations have been made.

SEC. 42. Section 4906 of the Penal Code is amended to read:

4906. The California Victim Compensation and Government Claims Board is hereby authorized to make all needful rules and regulations consistent with the law for the purpose of carrying into effect this chapter.

SEC. 43. Section 13835.2 of the Penal Code is amended to read:

13835.2. (a) Funds appropriated from the Victim-Witness Assistance Fund shall be made available through the Office of Emergency Services to any public or private nonprofit agency for the assistance of victims and witnesses that meets all of the following requirements:

(1) It provides comprehensive services to victims and witnesses of all types of crime. It is the intent of the Legislature to make funds available only to programs that do not restrict services to victims and witnesses of a particular type of crime, and do not restrict services to victims of crime in which there is a suspect in the case.

(2) It is recognized by the board of supervisors as the major provider of comprehensive services to victims and witnesses in the county.

(3) It is selected by the board of supervisors as the agency to receive funds pursuant to this article.

(4) It assists victims of crime in the preparation, verification, and presentation of their claims to the California Victim Compensation and Government Claims Board for indemnification pursuant to Article 1 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code.

(5) It cooperates with the California Victim Compensation and Government Claims Board in verifying the data required by Article 1 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code.

(b) The Office of Emergency Services shall consider the following factors, together with any other circumstances it deems appropriate, in awarding funds to public or private nonprofit agencies designated as victim and witness assistance centers:

(1) The capability of the agency to provide comprehensive services as defined in this article.

(2) The stated goals and objectives of the center.

(3) The number of people to be served and the needs of the community.

(4) Evidence of community support.

(5) The organizational structure of the agency that will operate the center.

(6) The capability of the agency to provide confidentiality of records.

SEC. 44. Section 14030 of the Penal Code is amended to read:

14030. (a) The Attorney General shall establish a liaison with the United States Marshal's office in order to facilitate the legal processes over which the federal government has sole authority, including, but not limited to, those processes included in Section 14024. The liaison shall coordinate all requests for federal assistance relating to witness protection as established by this title.

(b) The Attorney General shall pursue all federal sources that may be available for implementing this program. For that purpose, the Attorney General shall establish a liaison with the United States Department of Justice.

(c) The Attorney General, with the California Victim Compensation and Government Claims Board, shall establish procedures to maximize federal funds for witness protection services.

SEC. 45. Section 216 of the Probate Code is amended to read:

216. (a) For the purposes of this section "confined" means to be confined in a prison or facility under the jurisdiction of the Department of Corrections and Rehabilitation, or its Division of Juvenile Facilities, or confined in any county or city jail, road camp, industrial farm, or other local correctional facility.

(b) The estate attorney, or if there is no estate attorney, the beneficiary, the personal representative, or the person in possession of property of the decedent shall give the Director of the California Victim Compensation and Government Claims

Board notice of a decedent's death not later than 90 days after the date of death in either of the following circumstances:

(1) The deceased person has an heir or beneficiary who is confined.

(2) The estate attorney, or if there is no estate attorney, the beneficiary, the personal representative, or the person in possession of property of the decedent, knows that an heir or beneficiary has previously been confined.

(c) The notice shall be given as provided in Section 1215 and shall include all of the following:

(1) The name, date of birth, and location of incarceration, or current address if no longer incarcerated, of the decedent's heir or beneficiary.

(2) The heir's or beneficiary's CDCR number if incarcerated in a Department of Corrections and Rehabilitation facility or booking number if incarcerated in a county facility.

(3) A copy of the decedent's death certificate.

(4) The probate case number, and the name of the superior court hearing the case.

(d) Nothing in this section shall be interpreted as requiring the estate attorney, the beneficiary, the personal representative, or the person in possession of property of the decedent to conduct an additional investigation to determine whether a decedent has an heir or beneficiary who has been confined in a prison or facility under the jurisdiction of the Department of Corrections and Rehabilitation, or its Division of Juvenile Facilities, or confined in any county or city jail, road camp, industrial farm, or other local correctional facility.

SEC. 46. Section 9202 of the Probate Code is amended to read:

9202. (a) Not later than 90 days after the date letters are first issued to a general personal representative, the general personal representative or estate attorney shall give the Director of Health Care Services notice of the decedent's death in the manner provided in Section 215 if the general personal representative knows or has reason to believe that the decedent received health care under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, or was the surviving spouse of a person who received that health care. The director has four months after notice is given in which to file a claim.

(b) Not later than 90 days after the date letters are first issued to a general personal representative, the general personal representative or estate attorney shall give the Director of the California Victim Compensation and Government Claims Board notice of the decedent's death in the manner provided in Section 216 if the general personal representative or estate attorney knows that an heir or beneficiary is or has previously been confined in a prison or facility under the jurisdiction of the Department of Corrections and Rehabilitation or confined in any county or city jail, road camp, industrial farm, or other local correctional facility. The director of the board shall have four months after that notice is received in which to pursue collection of any outstanding restitution fines or orders.

(c) (1) Not later than 90 days after the date letters are first issued to a general personal representative, the general personal representative or estate attorney shall give

the Franchise Tax Board notice of the administration of the estate. The notice shall be given as provided in Section 1215.

(2) The provisions of this subdivision shall apply to estates for which letters are first issued on or after July 1, 2008.

(d) Nothing in this section shall be interpreted as requiring the estate attorney, the beneficiary, the personal representative, or the person in possession of property of the decedent to conduct an additional investigation to determine whether a decedent has an heir or beneficiary who has been confined in a prison or facility under the jurisdiction of the Department of Corrections and Rehabilitation, or its Division of Juvenile Facilities, or confined in any county or city jail, road camp, industrial farm, or other local correctional facility.

SEC. 47. Section 1752.81 of the Welfare and Institutions Code is amended to read:

1752.81. (a) Whenever the Director of the Division of Juvenile Justice has in his or her possession in trust funds of a ward committed to the division, the funds may be released for any purpose when authorized by the ward. When the sum held in trust for any ward by the director exceeds five hundred dollars (\$500), the amount in excess of five hundred dollars (\$500) may be expended by the director pursuant to a lawful order of a court directing payment of the funds, without the authorization of the ward thereto.

(b) Whenever an adult or minor is committed to or housed in a Division of Juvenile Facilities facility and he or she owes a restitution fine imposed pursuant to Section 13967 of the Government Code, as operative on or before September 28, 1994,

or Section 1202.4 or 1203.04 of the Penal Code, as operative on or before August 2, 1995, or pursuant to Section 729.6, 730.6 or 731.1, as operative on or before August 2, 1995, the director shall deduct the balance owing on the fine amount from the trust account deposits of a ward, up to a maximum of 50 percent of the total amount held in trust, unless prohibited by federal law. The director shall transfer that amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. Any amount so deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(c) Whenever an adult or minor is committed to, or housed in, a Division of Juvenile Facilities facility and he or she owes restitution to a victim imposed pursuant to Section 13967 of the Government Code, as operative on or before September 28, 1994, or Section 1202.4 or 1203.04 of the Penal Code, as operative on or before August 2, 1995, or pursuant to Section 729.6, 730.6, or 731.1, as operative on or before August 2, 1995, the director shall deduct the balance owing on the order amount from the trust account deposits of a ward, up to a maximum of 50 percent of the total amount held in trust, unless prohibited by federal law. The director shall transfer that amount directly to the victim. If the restitution is owed to a person who has filed an application with the Victims of Crime Program, the director shall transfer that amount to the California Victim Compensation and Government Claims Board for direct payment to the victim or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program. The sentencing court shall be provided

a record of the payments made to victims and of the payments deposited to the Restitution Fund pursuant to this subdivision.

(d) Any compensatory or punitive damages awarded by trial or settlement to a minor or adult committed to the Division of Juvenile Facilities in connection with a civil action brought against any federal, state, or local jail or correctional facility, or any official or agent thereof, shall be paid directly, after payment of reasonable attorney's fees and litigation costs approved by the court, to satisfy any outstanding restitution orders or restitution fines against the minor or adult. The balance of any award shall be forwarded to the minor or adult committed to the Division of Juvenile Facilities after full payment of all outstanding restitution orders and restitution fines subject to subdivision (e). The Division of Juvenile Facilities shall make all reasonable efforts to notify the victims of the crime for which the minor or adult was committed concerning the pending payment of any compensatory or punitive damages. This subdivision shall apply to cases settled or awarded on or after April 26, 1996, pursuant to Sections 807 and 808 of Title VIII of the federal Prison Litigation Reform Act of 1995 (P.L. 104-134; 18 U.S.C. Sec. 3626 (Historical and Statutory Notes)).

(e) The director shall deduct and retain from the trust account deposits of a ward, unless prohibited by federal law, an administrative fee that totals 10 percent of any amount transferred pursuant to subdivision (b) and (c), or 5 percent of any amount transferred pursuant to subdivision (d). The director shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution and victims program of the Division of Juvenile Facilities. The director, at his or her discretion, may retain any excess funds in the special deposit

account for future reimbursement of the division's administrative and support costs for the restitution and victims program or may transfer all or part of the excess funds for deposit in the Restitution Fund.

(f) When a ward has both a restitution fine and a restitution order from the sentencing court, the Division of Juvenile Facilities shall collect the restitution order first pursuant to subdivision (c).

(g) Notwithstanding subdivisions (a), (b), and (c), whenever the director holds in trust a ward's funds in excess of five dollars (\$5) and the ward cannot be located, after one year from the date of discharge, absconding from the Division of Juvenile Facilities supervision, or escape, the Division of Juvenile Facilities shall apply the trust account balance to any unsatisfied victim restitution order or fine owed by that ward. If the victim restitution order or fine has been satisfied, the remainder of the ward's trust account balance, if any, shall be transferred to the Benefit Fund to be expended pursuant to Section 1752.5. If the victim to whom a particular ward owes restitution cannot be located, the moneys shall be transferred to the Benefit Fund to be expended pursuant to Section 1752.5.

SEC. 48. Section 1752.82 of the Welfare and Institutions Code is amended to read:

1752.82. (a) Whenever an adult or minor is committed to or housed in a Youth Authority facility and he or she owes restitution to a victim or a restitution fine imposed pursuant to Section 13967, as operative on or before September 28, 1994, of the Government Code, or Section 1202.4 of the Penal Code, or Section 1203.04, as operative on or before August 2, 1994, of the Penal Code, or pursuant to Section 729.6, as

operative on or before August 2, 1995, Section 730.6 or 731.1, as operative on or before August 2, 1995, the director may deduct a reasonable amount not to exceed 50 percent from the wages of that adult or minor and the amount so deducted, exclusive of the costs of administering this section, which shall be retained by the director, shall be transferred to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury in the case of a restitution fine, or, in the case of a restitution order, and upon the request of the victim, shall be paid directly to the victim. Any amount so deducted shall be credited against the amount owing on the fine or to the victim. The committing court shall be provided a record of any payments.

(b) A victim who has requested that restitution payments be paid directly to him or her pursuant to subdivision (a) shall provide a current address to the Youth Authority to enable the Youth Authority to send restitution payments collected on the victim's behalf to the victim.

(c) In the case of a restitution order, whenever the victim has died, cannot be located, or has not requested the restitution payment, the director may deduct a reasonable amount not to exceed 50 percent of the wages of that adult or minor and the amount so deducted, exclusive of the costs of administering this section, which shall be retained by the director, shall be transferred to the California Victim Compensation and Government Claims Board, pursuant to subdivision (d), after one year has elapsed from the time the ward is discharged by the Youth Authority Board. Any amount so deducted shall be credited against the amount owing to the victim. The funds so transferred shall be deposited in the Restitution Fund.

(d) If the Youth Authority has collected restitution payments on behalf of a victim, the victim shall request those payments no later than one year after the ward has been discharged by the Youth Authority Board. Any victim who fails to request those payments within that time period shall have relinquished all rights to the payments, unless he or she can show reasonable cause for failure to request those payments within that time period.

(e) The director shall transfer to the California Victim Compensation and Government Claims Board all restitution payments collected prior to the effective date of this section on behalf of victims who have died, cannot be located, or have not requested restitution payments. The California Victim Compensation and Government Claims Board shall deposit these amounts in the Restitution Fund.

(f) For purposes of this section, "victim" includes a victim's immediate surviving family member, on whose behalf restitution has been ordered.

SEC. 49. Section 11212 of the Welfare and Institutions Code is amended to read:

11212. (a) The state, through the county welfare department, shall reimburse the foster parent or foster parents for the cost of the burial plot and funeral expenses incurred for any child who, at the time of death, is receiving foster care, as defined in Section 11251, to the extent that the foster parent or foster parents are not otherwise reimbursed for costs incurred for those purposes.

(b) The state, through the county welfare department, shall pay the burial costs and funeral expenses directly to the funeral home and the burial plot owner when either one of the following conditions exists:

(1) The foster parent or foster parents request the direct payment.

(2) The child's death is due to alleged criminal negligence or other alleged criminal action on the part of the foster parent or foster parents.

(c) The foster parent, or the funeral home and burial plot provider, shall file a claim for reimbursement of costs with the county welfare department at the time and in the manner specified by the department. The county welfare department shall pay the claims in an amount not to exceed the level of reimbursement allowed by the California Victim Compensation and Government Claims Board for burial costs and funeral expenses under its Victims of Violent Crimes program, which is contained in Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code. Claims for the burial costs and funeral expenses for a foster child shall be paid out of funds appropriated annually to the department for those purposes.

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, \_\_\_\_\_.

General Subject: California Victim Compensation and Government Claims Board:  
name change.

Existing law establishes, within the Government Operations Agency, the California Victim Compensation and Government Claims Board. Existing law sets forth the various duties of the board, which include, among others, compensating victims and derivative victims of specified types of crimes for losses suffered as a result of those crimes and processing certain claims against the state.

This bill would rename the board the California Victim Compensation Board and make conforming name changes in provisions related to the board's duties regarding the compensation of victims and derivative victims of crimes.

Existing law specifies that any reference in statute or regulation to the State Board of Control shall be construed to refer to the California Victim Compensation and Government Claims Board.

This bill would repeal that provision and modify references to the State Board of Control to instead refer to the California Victim Compensation Board.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.