

Assembly Bill No. 109

CHAPTER 15

An act to amend Sections 585, 650, 654.1, 655.5, 729, 1282.3, 1701, 1701.1, 1960, 2052, 2315, 4324, 5536.5, 6126, 6153, 6788, 7028.16, 7739, 10238.6, 11020, 11023, 11286, 11287, 11320, 16755, 17511.9, 17550.19, 22430, and 25618 of the Business and Professions Code, to amend Sections 892, 1695.8, 1812.125, 1812.217, 2945.7, 2985.2, and 2985.3 of the Civil Code, to amend Sections 2255, 2256, 6811, 6814, 8812, 8815, 12672, 12675, 22002, 25540, 27202, 28880, 29102, 29550, 31410, 31411, and 35301 of the Corporations Code, to amend Section 7054 of the Education Code, to amend Sections 18002, 18100, 18101, 18102, 18106, 18200, 18201, 18203, 18204, 18205, 18310, 18311, 18400, 18403, 18502, 18520, 18521, 18522, 18523, 18524, 18540, 18544, 18545, 18560, 18561, 18564, 18566, 18567, 18568, 18573, 18575, 18578, 18611, 18613, 18614, 18620, 18621, 18640, 18660, 18661, and 18680 of the Elections Code, to amend Sections 3510, 3532, 5300, 5302, 5303, 5304, 5305, 5307, 10004, 12102, 14752, 17700, 18349.5, 18435, 22753, 22780, 31880, and 50500 of the Financial Code, to amend Sections 12004 and 12005 of the Fish and Game Code, to amend Sections 17701, 18932, 18933, 19440, 19441, and 80174 of the Food and Agriculture Code, to amend Sections 1195, 1368, 1369, 3108, 3109, 5954, 6200, 6201, 9056, 27443, and 51018.7 of the Government Code, to amend Sections 264, 310, and 668 of the Harbors and Navigation Code, to amend Sections 1390, 1522.01, 1621.5, 7051, 7051.5, 8113.5, 8785, 11100, 11100.1, 11105, 11153, 11153.5, 11162.5, 11350, 11351, 11351.5, 11352, 11353.5, 11353.6, 11353.7, 11356, 11357, 11358, 11359, 11360, 11362, 11366.5, 11366.6, 11366.8, 11370.6, 11371, 11371.1, 11374.5, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380.7, 11381, 11383, 11383.5, 11383.6, 11383.7, 12401, 12700, 17061, 18124.5, 25180.7, 25189.5, 25189.6, 25189.7, 25190, 25191, 25395.13, 25515, 25541, 42400.3, 44209, 100895, 109335, 115215, 116730, 116750, 118340, and 131130 of the Health and Safety Code, to amend Sections 700, 750, 833, 1043, 1215.10, 1764.7, 1814, 1871.4, 10192.165, 11161, 11162, 11163, 11760, 11880, 12660, and 12845 of the Insurance Code, to amend Sections 227, 6425, and 7771 of the Labor Code, to amend Sections 145, 1318, 1672, and 1673, of the Military and Veterans Code, to amend Sections 17, 18, 19.2, 33, 38, 67.5, 69, 71, 72, 72.5, 76, 95, 95.1, 96, 99, 107, 109, 113, 114, 115.1, 126, 136.7, 137, 139, 140, 142, 146a, 146e, 148, 148.1, 148.3, 148.4, 148.10, 149, 153, 156, 157, 168, 171c, 171d, 181, 182, 186.10, 186.22, 186.26, 186.28, 186.33, 191.5, 193, 193.5, 210.5, 217.1, 218.1, 219.1, 222, 237, 241.1, 241.4, 241.7, 243, 243.1, 243.6, 244.5, 245, 245.6, 246.3, 247.5, 261.5, 265, 266b, 266e, 266f, 266g, 271, 271a, 273.4, 273.6, 273.65, 273d, 278, 278.5, 280, 284, 288.2, 290.018, 290.4, 290.45, 290.46, 298.2, 299.5, 311.9, 313.4, 337.3, 337.7, 337b, 337c, 337d, 337e, 337f, 350, 367f, 367g, 368, 374.2, 374.8, 375, 382.5, 382.6, 386, 387, 399.5, 404.6, 405b, 417,

417.3, 417.6, 422, 422.7, 453, 455, 461, 463, 464, 470a, 470b, 473, 474, 478, 479, 480, 481, 483.5, 484b, 484i, 487b, 487d, 489, 496, 496a, 496d, 499c, 499d, 500, 502, 506b, 520, 529, 529a, 530.5, 532a, 532f, 533, 535, 537e, 538.5, 548, 549, 550, 551, 560, 560.4, 566, 570, 577, 578, 580, 581, 587, 587.1, 591, 593, 594, 594.3, 594.35, 594.4, 597, 597.5, 598c, 598d, 600, 601, 610, 617, 620, 621, 625b, 626.9, 626.95, 626.10, 629.84, 631, 636, 637, 647.6, 653f, 653h, 653j, 653s, 653t, 653u, 653w, 664, 666, 666.5, 667.5, 668, 800, 801, 803, 836.6, 1168, 1170, 1174.4, 1203.016, 1208.2, 1213, 1320, 1320.5, 2600, 2650, 2772, 2790, 2900.5, 2932, 3000, 3000.1, 3001, 3003, 3056, 3057, 4011.7, 4016.5, 4019, 4131.5, 4501.1, 4502, 4530, 4532, 4533, 4536, 4550, 4573, 4573.6, 4573.9, 4574, 4600, 11411, 11413, 11418, 11419, 12021, 12021.1, 12021.5, 12022, 12022.5, 12022.9, 12025, 12035, 12040, 12072, 12076, 12090, 12101, 12220, 12280, 12281, 12303.3, 12303.6, 12304, 12312, 12320, 12355, 12370, 12403.7, 12422, 12520, 18715, 18720, 18725, 18730, 18735, 18740, 20110, 22810, 22910, 23900, 25110, 25300, 25400, 25850, 27590, 28250, 29700, 30315, 30600, 30605, 30725, 31360, 32625, and 33410 of, to add Sections 17.5, 1203.018, 1230.1, 2057, 3000.08, and 3000.09 to, to add Title 2.05 (commencing with Section 3450) to Part 3 of, and to repeal Sections 3060 and 3061 of, the Penal Code, to amend Sections 10283 and 10873 of the Public Contract Code, to amend Sections 5097.99, 14591, 25205, and 48680 of the Public Resources Code, to amend Sections 7680, 7724, 7903, and 21407.6 of the Public Utilities Code, to amend Sections 7093.6, 9278, 14521, 16910, 18631.7, 19705, 19708, 30459.15, 32471.5, 32555, 38800, 40211.5, 41171.5, 43522.5, 43606, 45867.5, 45955, 46628, 46705, 50156.18, 55332.5, 55363, and 60637 of the Revenue and Taxation Code, to amend Sections 2478, 2800.4, 4463, 10501, 10752, 10801, 10802, 10803, 10851, 21464, 21651, 23104, 23105, 23109, 23109.1, 23110, 23550, and 42000 of the Vehicle Code, to amend Section 13387 of the Water Code, and to amend Sections 871.5, 1001.5, 1731.5, 1768.7, 1768.85, 3002, 7326, 8100, 8101, 8103, 10980, 14107.2, 14107.3, 14107.4, and 17410 of, and to add Section 1710.5 to, the Welfare and Institutions Code, relating to criminal justice realignment, making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor April 4, 2011. Filed with
Secretary of State April 4, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

AB 109, Committee on Budget. Criminal justice alignment.

(1) Existing law defines a felony as a crime which is punishable with death or by imprisonment in the state prison. Existing law also provides that except in cases where a different punishment is prescribed by law, every offense declared to be a felony, or to be punishable by imprisonment in a state prison, is punishable by imprisonment in any of the state prisons for 16 months, or 2 or 3 years. Every offense which is prescribed to be a felony punishable by imprisonment in any of the state prisons or by a fine, but

without an alternate sentence to the county jail, may be punishable by imprisonment in the county jail not exceeding one year or by a fine, or by both.

This bill would instead provide that a felony is a crime that is punishable with death, by imprisonment in the state prison, or notwithstanding any other provision of law, by imprisonment in a county jail for more than one year. The bill would generally provide that felonies are punishable by imprisonment in a county jail for 16 months, or 2 or 3 years. The bill provides exceptions to imprisonment in a county jail for a variety of felonies, including serious felonies and violent felonies, as defined, felonies requiring registration as a sex offender, and when the defendant has a prior conviction for a serious or violent felony, or a felony subjecting the defendant to registration as a sex offender, among other exceptions.

The bill would authorize counties to contract with the Department of Corrections and Rehabilitation for beds in state prisons for the commitment of persons from the county convicted of a felony.

(2) Existing law establishes within the Department of Corrections and Rehabilitation, the Division of Juvenile Justice, consisting of the Division of Juvenile Facilities, the Division of Juvenile Programs, and the Division of Juvenile Parole Operations, which operate the statewide system governing wards of the court and other persons committed to the department, and the detention, rehabilitation, probation, and parole thereof. Under existing law, and under specified circumstances, the juvenile court is authorized to commit persons to the Division of Juvenile Justice.

This bill would provide that on and after July 1, 2011, unless a county has entered a memorandum of understanding with the state, the Division of Juvenile Justice shall no longer accept any juvenile offender commitments from the juvenile courts. The bill would, notwithstanding any other law and on and after July 1, 2011, authorize a county to enter into a memorandum of understanding with the state to provide for the admission of minors adjudicated for specified offenses to the Division of Juvenile Justice.

(3) Existing law authorizes the board of supervisors of any county to authorize the correctional administrator to offer a program under which minimum security inmates and low-risk offenders committed to a county jail or other county correctional facility or granted probation, or inmates participating in a work furlough program, may voluntarily participate in a home detention program in lieu of confinement in the county jail or other county correctional facility under the auspices of the probation officer. Existing law provides that the board of supervisors of any county may, upon determination by the correctional administrator that conditions in a jail facility warrant the necessity of releasing sentenced misdemeanor inmates prior to their serving the full amount of a given sentence due to lack of jail space, offer a program under which specified inmates may be required to participate in an involuntary home detention program.

This bill would enhance the authorization granted to the correctional administrator to offer a voluntary home detention program to include all inmates and additionally subject those inmates to involuntary participation

in a home detention program. The bill would provide that the board of supervisors of any county may authorize the correctional administrator to offer a program under which inmates being held in lieu of bail may be placed in an electronic monitoring program, as specified. The bill would establish criteria for inmates to be eligible for the electronic monitoring program. The bill would make it a misdemeanor for any inmate who is a participant in an electronic monitoring program to fail to comply with the prescribed rules and regulations. By creating a new crime, the bill would impose a state-mandated local program.

(4) Existing law provides for an administrative and application fee for specified work furlough and voluntary electronic home detention program participants. Existing law limits the fees to the pro rata cost of the program to which the person is accepted, as specified. Existing law exempts privately operated voluntary electronic monitoring programs from this fee limitation.

This bill would additionally exempt electronic monitoring programs created by this bill from the fee limitation.

(5) Existing law provides that in all felony and misdemeanor convictions when the defendant has been in custody, including, but not limited to, any time spent in a jail, camp, work furlough, facility, halfway house, rehabilitation facility, hospital, prison, juvenile detention facility, or similar residential institution, all days of custody of the defendant, including days served as a condition of probation credited to the period of confinement, as specified, shall be credited upon his or her term of imprisonment, or credited to any fine, as specified.

This bill includes all days served in a home detention program to that provision, as specified. The bill would also provide that time served in a home detention program, as specified, shall qualify as mandatory time in jail.

(6) Existing law provides that in regards to persons sentenced to the state prison, except for certain specified prisoners, for every 6 months of continuous incarceration, a prisoner shall be awarded credit reductions from his or her term of confinement of 6 months, as specified, and that a lesser amount of credit based on this ratio shall be awarded for any lesser period of continuous incarceration. Credit accumulated pursuant to those provisions may be denied or lost for any specified act committed by the prisoner, including acts for misconduct that could be prosecuted as a felony or a misdemeanor, or misconduct that is a serious disciplinary offense. Existing law requires the Department of Corrections and Rehabilitation to provide notice to a prisoner regarding the denial or loss of credits and permits the prisoner to appeal the decision of the department, as specified.

This bill would provide that credit accumulated while a prisoner is confined to a county jail, city jail, industrial farm, or road camp may be denied or lost for any specified act. The bill would require, for those prisoners confined to a county jail, city jail, industrial farm, or road camp, the sheriff or director of the county correctional department to provide notice to a prisoner regarding the denial or loss of credits and would permit the prisoner to appeal the decision of the sheriff or director of the county

correctional department, as specified. By imposing additional duties on local law enforcement agencies, this bill would impose a state-mandated local program.

(7) Existing law provides time credit for work performance and good behavior to prisoners confined to a county jail, industrial farm, or road camp, or any city jail, industrial farm, or road camp. Specifically, except regarding certain prisoners who are limited to 15% credit against sentenced time, existing law provides that a term of 6 days will be deemed to have been served for every 4 days spent in actual custody, as specified.

This bill would require, for prisoners whose crimes are committed on or after July 1, 2011, except those who are limited to 15% credit against sentenced time, and who are confined to a county jail, city jail, industrial farm, or road camp, that a term of 4 days be deemed to have been served for every 2 days spent in actual custody, as specified.

(8) Existing law generally provides that the Board of Parole Hearings, a state agency, shall have the power to allow prisoners imprisoned in the state prisons to go upon parole outside the prison walls and enclosures, as specified. Existing law authorizes each county to establish a local Community Corrections Partnership to provide a system of felony probation supervision services, as specified.

This bill would enact the Postrelease Community Supervision Act of 2011 to provide that any person released from prison on or after July 1, 2011, after serving a term in prison for certain felonies that are, among other things, not serious or violent, shall be subject to, for a period not exceeding 3 years, community supervision provided by a county agency designated by that county's board of supervisors, as prescribed. By imposing additional duties as local agencies, this bill would impose a state-mandated local program. The bill would also require the courts to establish a process to determine if there has been a violation of the conditions of the postrelease supervision, and the courts would be authorized to take certain actions upon such a finding. The bill would establish within each county local Community Corrections Partnership an executive committee, as specified, to recommend a local plan to the county board of supervisors on how the 2011 public safety realignment should be implemented within that county.

(9) Existing law generally commits persons convicted of felonies to the jurisdiction of the Department of Corrections and Rehabilitation. Existing law also provides for parole of those felons, under the jurisdiction of the Board of Parole Hearings.

This bill would limit the jurisdiction of the Board of Parole Hearings for purposes of parole supervision by providing that persons who are released from prison after serving terms for a serious felony, as defined, a violent felony, as defined, a term imposed because of 2 or more prior felony convictions, as specified, or a term for an offense whereby the person may be classified as a High Risk Sex Offender, would be subject to parole supervision by the department or the court, as specified.

The bill would require that any parolee who was paroled from state prison prior to July 1, 2011, be subject to certain parole supervision requirements,

including, but not limited to, that he or she remain under the supervision of the department until a specified circumstance occurs, and that those parolees, being held for a parole violation in county jail on July 1, 2011, be subject to the jurisdiction of the board. Eligible parolees released from prison after serving terms for a serious felony, a violent felony, a term imposed because of 2 or more prior felony convictions, as specified, or a term for an offense whereby the person may be classified as a High Risk Sex Offender, whose parole is revoked by the board, would be remanded to state prison, and after his or her release jurisdiction over the parolee would remain under the Division of Adult Parole Operations. Any subsequent revocation action would be conducted by the court in the county into which the parolee was released.

(10) Existing law, as amended by Proposition 83 when that initiative was approved by the voters at the November 7, 2006, statewide general election, requires a person who has been convicted of a specified sex offense and who has been released on parole from state prison, to be discharged from parole by the board if he or she has been on parole continuously for 6 years since release from confinement, or 20 years in the case of conviction for specified sex offenses, unless the board determines, for good cause, that the person will be retained on parole. A measure that amends Proposition 83 requires a $\frac{2}{3}$ vote in each house unless the measure expands the scope of the application of the proposition's provisions or increases the punishments or penalties provided therein.

This bill would transfer the above-referenced duties from the board to the courts. The bill would increase the above-described parole periods to $6\frac{1}{2}$ years and $20\frac{1}{2}$ years, respectively.

(11) Existing law generally requires an inmate who is released on parole to be returned to the county that was the last legal residence of the inmate prior to his or her incarceration. Existing law also requires the department to release specified information regarding paroled inmates to local law enforcement, as specified, and to control and be responsible for the Law Enforcement Automated Data System (LEADS) regarding that information.

This bill would generally require an inmate who is released under a postrelease supervision program to be returned to the county that was the last legal residence of the inmate prior to his or her incarceration. The bill would also require the Department of Corrections and Rehabilitation to include information on inmates released under a postrelease supervision program in LEADS. The bill would require county agencies supervising inmates released under a postrelease supervision program to provide to the department any inmate information requested by the department that is to be used in LEADS. By imposing new duties on local agencies, the bill would impose a state-mandated local program.

(12) The bill would make additional conforming changes.

(13) By imposing additional burdens on local government entities, this bill would impose a state-mandated local program.

(14) The bill would become operative no earlier than July 1, 2011, and only upon creation of a community corrections grant program to assist in implementing this act and upon an appropriation to fund the grant program.

(15) This bill would appropriate \$1,000 from the General Fund to the Department of Corrections and Rehabilitation for purposes of state operations.

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

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(17) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 20, 2011.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

(18) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. This act is titled and may be cited as the 2011 Realignment Legislation addressing public safety.

SEC. 2. Section 585 of the Business and Professions Code is amended to read:

585. Any person, company, or association violating the provisions of this article is guilty of a felony and upon conviction thereof shall be punishable by a fine of not less than two thousand dollars (\$2,000) nor more than six thousand dollars (\$6,000), or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code. The enforcement remedies provided under this article are not exclusive and shall not preclude the use of any other criminal, civil, or administrative remedy.

SEC. 3. Section 650 of the Business and Professions Code is amended to read:

650. (a) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form