

AMENDED IN ASSEMBLY APRIL 15, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL**No. 420****Introduced by Assembly Member Davis**

February 14, 2011

~~An act to amend, repeal, and add Sections 1208.2, 2900.5, and 4532 of, and to add and repeal Sections 1203.018, 1203.019, and 1269d of, the Penal Code, relating to electronic monitoring. An act to add Section 21003 to the Elections Code, relating to redistricting.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 420, as amended, Davis. ~~Inmates: electronic monitoring. Redistricting.~~

Existing law, as added by constitutional initiative, establishes the Citizens Redistricting Commission, and charges it with various duties and responsibilities in connection with redistricting Assembly, Senate, Board of Equalization, and congressional districts, as specified. Existing law also requires various local government agencies to adjust their district boundaries following each decennial federal census. Existing law establishes the Department of Corrections and Rehabilitation, and charges it with various duties and responsibilities in connection with the incarceration and rehabilitation of prisoners, as specified.

This bill would require the Department of Corrections and Rehabilitation to furnish to the Citizens Redistricting Commission and the Secretary of State, by December 31, 2018, information regarding the last known place of residence, as defined, of each inmate incarcerated in a state adult correctional facility, except as specified, and would further require the Secretary of State to furnish that information, by December 31, 2019, to each local government agency

responsible for adjusting district boundaries. The bill also would request the Citizens Redistricting Commission, and would require each local government agency that receives the above information, to deem each incarcerated person as residing at his or her last known place of residence, rather than at the institution of his or her incarceration, and to utilize the above information in carrying out its redistricting responsibilities.

~~Existing law provides that the board of supervisors of any county may 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. Existing law also 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 them 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 provide that, until January 1, 2016, upon determination of the correctional administrator that conditions in a jail facility warrant the necessity of releasing inmates being held in lieu of bail, the board of supervisors of any county may authorize the correctional administrator to offer a program under which these inmates may be placed in an electronic monitoring program, as specified. The bill would provide separate authority for voluntary and involuntary electronic monitoring programs. The bill would establish criteria for inmates to be eligible for programs established pursuant to its provisions and would specify circumstances under which inmates may be placed in these programs. The bill would also provide that defendants arrested for a bailable offense who are without any other warrant and who meet certain criteria may apply, after 10 court days from the date of arraignment, for release on reduced bail if the defendant agrees to be placed in the voluntary electronic monitoring program and the court and correctional administrator determine that the defendant is eligible to participate in 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, this bill would impose a state-mandated local program. The bill would specify, for persons~~

~~pending disposition of charges, that electronic monitoring programs authorized pursuant to this bill include, but are not limited to, home detention programs, work furlough programs, and work release programs. The bill would make other conforming changes.~~

~~Existing law provides for an administrative fee for specified work furlough and voluntary electronic home detention program participants.~~

~~This bill would include participants in the voluntary electronic monitoring program for persons pending disposition of charges, and the existing voluntary home detention program, within the coverage of those administrative fee provisions, as specified.~~

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

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

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

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

1 SECTION 1. Section 21003 is added to the Elections Code, to
2 read:

3 21003. (a) (1) Not later than December 31, 2018, the
4 Department of Corrections and Rehabilitation shall furnish to the
5 Citizens Redistricting Commission and the Secretary of State
6 information regarding the last known place of residence of each
7 inmate incarcerated in a state adult correctional facility, except
8 an inmate who is a foreign national or whose last known place of
9 residence is outside of California.

10 (2) Not later than December 31, 2019, the Secretary of State
11 shall furnish the information described in paragraph (1) to each
12 local government agency responsible for adjusting district
13 boundaries under this division.

14 (b) Consistent with Section 2025, the Legislature hereby requests
15 the Citizens Redistricting Commission to deem each incarcerated
16 person as residing at his or her last known place of residence,
17 rather than at the institution of his or her incarceration, and to
18 utilize the information furnished to it pursuant to paragraph (1)
19 of subdivision (a) in carrying out its redistricting responsibilities
20 under Article XXI of the California Constitution.

1 (c) Consistent with Section 2025, each local government agency
2 responsible for adjusting district boundaries under this division
3 shall deem each incarcerated person as residing at his or her last
4 known place of residence, rather than at the institution of his or
5 her incarceration, and shall utilize the information furnished to it
6 pursuant to paragraph (2) of subdivision (a) in carrying out its
7 redistricting responsibilities under this division.

8 (d) For purposes of this section, "last known place of residence"
9 means the address at which the inmate was last domiciled prior
10 to his or her current term of incarceration, as determined from
11 the court records of the county in which the inmate was sentenced
12 to his or her current term of incarceration.

13 ~~SECTION 1. Section 1203.018 is added to the Penal Code, to~~
14 ~~read:~~

15 ~~1203.018. (a) Notwithstanding any other law, this section shall~~
16 ~~only apply to inmates being held in lieu of bail and on no other~~
17 ~~basis. This section shall only apply if the correctional administrator~~
18 ~~of a county, as defined in paragraph (1) of subdivision (j), makes~~
19 ~~a determination that conditions in a jail facility warrant the~~
20 ~~necessity of releasing inmates being held in lieu of bail due to a~~
21 ~~lack of jail space and a court-ordered jail population cap.~~

22 ~~(b) Notwithstanding any other law, the board of supervisors of~~
23 ~~any county may authorize the correctional administrator, as defined~~
24 ~~in paragraph (1) of subdivision (j), to offer a program under which~~
25 ~~inmates being held in lieu of bail in a county jail or other county~~
26 ~~correctional facility may voluntarily participate in an electronic~~
27 ~~monitoring program if the conditions specified in subdivision (a)~~
28 ~~are met.~~

29 ~~(c) (1) In order to qualify for participation in an electronic~~
30 ~~monitoring program pursuant to this section, the inmate must be~~
31 ~~a minimum security inmate with no holds or outstanding warrants~~
32 ~~and one of the following circumstances must exist:~~

33 ~~(A) A magistrate has approved the electronic monitoring release~~
34 ~~pursuant to Section 1269d.~~

35 ~~(B) The inmate has been held in custody for at least 30 calendar~~
36 ~~days from the date of arraignment pending disposition of only~~
37 ~~misdemeanor charges.~~

38 ~~(C) The inmate has been held in custody pending disposition~~
39 ~~of charges for at least 60 calendar days from the date of~~
40 ~~arraignment.~~

1 (2) All participants shall be subject to discretionary review by
2 the correctional administrator consistent with this section.

3 (d) The county board of supervisors, after consulting with the
4 sheriff and district attorney, may prescribe reasonable rules and
5 regulations under which an electronic monitoring program pursuant
6 to this section may operate. As a condition of participation in the
7 electronic monitoring program, the participant shall give his or
8 her consent in writing to participate and shall agree in writing to
9 comply with the rules and regulations of the program, including,
10 but not limited to, all of the following:

11 (1) The participant shall remain within the interior premises of
12 his or her residence during the hours designated by the correctional
13 administrator.

14 (2) The participant shall admit any person or agent designated
15 by the correctional administrator into his or her residence at any
16 time for purposes of verifying the participant's compliance with
17 the conditions of his or her detention.

18 (3) If released pursuant to subparagraph (A) of paragraph (1)
19 of subdivision (c), the participant shall post bond prior to being
20 placed on electronic monitoring.

21 (4) The electronic monitoring may include global positioning
22 system devices or other supervising devices for the purpose of
23 helping to verify the participant's compliance with the rules and
24 regulations of the electronic detention program. The devices shall
25 not be used to eavesdrop or record any conversation, except a
26 conversation between the participant and the person supervising
27 the participant to be used solely for the purposes of voice
28 identification.

29 (5) (A) The correctional administrator in charge of the county
30 correctional facility from which the participant was released may,
31 without further order of the court, immediately retake the person
32 into custody if the electronic monitoring or supervising devices
33 are unable for any reason to properly perform their function at the
34 designated place of home detention, if the person fails to remain
35 within the place of home detention as stipulated in the agreement,
36 if the person willfully fails to pay fees to the provider of electronic
37 home detention services, as stipulated in the agreement, subsequent
38 to the written notification of the participant that the payment has
39 not been received and that return to custody may result, or if the

1 person for any other reason no longer meets the established criteria
2 under this section.

3 ~~(B) A copy of the signed consent to participate and a copy of~~
4 ~~the agreement to comply with the rules and regulations shall be~~
5 ~~provided to the participant and a copy shall be retained by the~~
6 ~~correctional administrator.~~

7 ~~(c) The rules and regulations and administrative policy of the~~
8 ~~program shall be reviewed on an annual basis by the county board~~
9 ~~of supervisors and the correctional administrator. The rules and~~
10 ~~regulations shall be given to every participant.~~

11 ~~(f) Whenever the peace officer supervising a participant has~~
12 ~~reasonable cause to believe that the participant is not complying~~
13 ~~with the rules or conditions of the program, or that the electronic~~
14 ~~monitoring devices are unable to function properly in the~~
15 ~~designated place of confinement, the peace officer may, under~~
16 ~~general or specific authorization of the correctional administrator,~~
17 ~~and without a warrant of arrest, retake the person into custody.~~

18 ~~(g) (1) Nothing in this section shall be construed to require the~~
19 ~~correctional administrator to allow a person to participate in this~~
20 ~~program if it appears from the record that the person has not~~
21 ~~satisfactorily complied with reasonable rules and regulations while~~
22 ~~in custody. A person shall be eligible for participation in an~~
23 ~~electronic monitoring program only if the correctional administrator~~
24 ~~concludes that the person meets the criteria for release established~~
25 ~~under this section and that the person's participation is consistent~~
26 ~~with any reasonable rules and regulations prescribed by the board~~
27 ~~of supervisors or the administrative policy of the correctional~~
28 ~~administrator.~~

29 ~~(2) The correctional administrator, or his or her designee, shall~~
30 ~~have discretionary authority consistent with this section to permit~~
31 ~~program participation as an alternative to physical custody. All~~
32 ~~persons approved by the court to participate in the electronic~~
33 ~~monitoring program pursuant to subdivision (c) who are denied~~
34 ~~participation and all persons removed from program participation~~
35 ~~shall be notified in writing of the specific reasons for the denial~~
36 ~~or removal. The notice of denial or removal shall include the~~
37 ~~participant's appeal rights, as established by program administrative~~
38 ~~policy.~~

39 ~~(h) The correctional administrator may permit electronic~~
40 ~~monitoring program participants to seek and retain employment~~

1 in the community, attend psychological counseling sessions or
2 educational or vocational training classes, or seek medical and
3 dental assistance. Willful failure of the program participant to
4 return to the place of home detention later than the expiration of
5 any period of time during which he or she is authorized to be away
6 from the place of home detention pursuant to this section and
7 unauthorized departures from the place of home detention are
8 punishable as provided in subdivision (c) of Section 4532.

9 (i) The board of supervisors may prescribe a program
10 administrative fee to be paid by each electronic monitoring
11 participant.

12 (j) For purposes of this section, the following terms have the
13 following meanings:

14 (1) "Correctional administrator" means the sheriff, probation
15 officer, or director of the county department of corrections.

16 (2) "Electronic monitoring program" includes, but is not limited
17 to, home detention programs, work furlough programs, and work
18 release programs.

19 (3) "Minimum security inmate" means an inmate who, by
20 established local classification criteria, would be eligible for
21 placement in a Type IV local detention facility, as described in
22 Title 15 of the California Code of Regulations.

23 (k) Notwithstanding any other law, upon request of a local law
24 enforcement agency with jurisdiction over the location where a
25 participant in an electronic monitoring program is placed, the
26 correctional administrator shall provide the following information
27 regarding participants in the electronic monitoring program:

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

29 (2) The offense or offenses alleged to have been committed by
30 the participant.

31 (3) The period of time the participant will be placed on home
32 detention.

33 (4) Whether the participant successfully completed the
34 prescribed period of home detention or was returned to a county
35 correctional facility, and if the person was returned to a county
36 correctional facility, the reason for the return.

37 (5) The gender and ethnicity of the participant.

38 (6) If released pursuant to Section 1269d, the name, address,
39 and contact information of any bail agent or surety.

~~(f) Any information received by a law enforcement agency pursuant to subdivision (k) shall be used only for the purpose of monitoring the impact of home electronic monitoring programs on the community.~~

~~(m) It is the intent of the Legislature that electronic monitoring programs established under this section maintain the highest public confidence, credibility, and public safety. In the furtherance of these standards, the following shall apply:~~

~~(1) The correctional administrator, with the approval of the board of supervisors, may administer an electronic monitoring program as provided in this section pursuant to written contracts with appropriate public or private agencies or entities to provide specified program services. No public or private agency or entity may operate a home detention program pursuant to this section in any county without a written contract with that county's correctional administrator. No public or private agency or entity entering into a contract may itself employ any person who is in the electronic monitoring program.~~

~~(2) Program participants shall undergo the normal booking process for arrestees entering the jail. All electronic monitoring program participants shall be supervised.~~

~~(3) (A) All privately operated electronic monitoring programs shall be under the jurisdiction of, and subject to the terms and conditions of the contract entered into with, the correctional administrator.~~

~~(B) Each contract specified in subparagraph (A) shall include, but not be limited to, all of the following:~~

~~(i) A provision whereby the private agency or entity agrees to operate in compliance with any available standards and all state and county laws applicable to the operation of electronic monitoring programs and the supervision of offenders in an electronic monitoring program.~~

~~(ii) A provision that clearly defines areas of respective responsibility and liability of the county and the private agency or entity.~~

~~(iii) A provision that requires the private agency or entity to demonstrate evidence of financial responsibility, submitted to and approved by the board of supervisors, in amounts and under conditions sufficient to fully indemnify the county for reasonably foreseeable public liability, including legal defense costs, that may~~

1 arise from, or be proximately caused by, acts or omissions of the
2 contractor.

3 (iv) A provision that requires the private agency or entity to
4 provide evidence of financial responsibility, such as certificates
5 of insurance or copies of insurance policies, prior to commencing
6 any operations pursuant to the contract or at any time requested
7 by the board of supervisors or correctional administrator.

8 (v) A provision that requires an annual review by the
9 correctional administrator to ensure compliance with requirements
10 set by the board of supervisors and for adjustment of the financial
11 responsibility requirements if warranted by caseload changes or
12 other factors.

13 (vi) A provision that permits the correctional administrator to
14 immediately terminate the contract with a private agency or entity
15 at any time that the contractor fails to demonstrate evidence of
16 financial responsibility.

17 (C) All privately operated electronic monitoring programs shall
18 comply with all applicable ordinances and regulations specified
19 in subdivision (a) of Section 1208.

20 (D) The board of supervisors, the correctional administrator,
21 and the designee of the correctional administrator shall comply
22 with Section 1090 of the Government Code in the consideration,
23 making, and execution of contracts pursuant to this section.

24 (E) The failure of the private agency or entity to comply with
25 state or county laws or with the standards established by the
26 contract with the correctional administrator shall constitute cause
27 to terminate the contract.

28 (F) Upon the discovery that a private agency or entity with
29 which there is a contract is not in compliance with this paragraph,
30 the correctional administrator shall give 60 days' notice to the
31 director of the private agency or entity that the contract may be
32 canceled if the specified deficiencies are not corrected.

33 (G) Shorter notice may be given or the contract may be canceled
34 without notice whenever a serious threat to public safety is present
35 because the private agency or entity has failed to comply with this
36 section.

37 (H) For purposes of this section, "evidence of financial
38 responsibility" may include, but is not limited to, certified copies
39 of any of the following:

40 (i) A current liability insurance policy.

1 (ii) ~~A current errors and omissions insurance policy.~~

2 (iii) ~~A surety bond.~~

3 (n) ~~This section shall remain in effect only until January 1, 2016,~~
4 ~~and as of that date is repealed, unless a later enacted statute, that~~
5 ~~is enacted before January 1, 2016, deletes or extends that date.~~

6 SEC. 2. ~~Section 1203.019 is added to the Penal Code, to read:~~

7 ~~1203.019. (a) Notwithstanding any other provision of law,~~
8 ~~this section shall only apply to inmates being held in lieu of bail~~
9 ~~and on no other basis. This section shall only apply if the~~
10 ~~correctional administrator of a county, as defined in paragraph (1)~~
11 ~~of subdivision (j), makes a determination that conditions in a jail~~
12 ~~facility warrant the necessity of releasing inmates being held in~~
13 ~~lieu of bail due to a lack of jail space or due to a current or~~
14 ~~impending court-ordered jail population cap.~~

15 ~~(b) Notwithstanding any other law, the board of supervisors of~~
16 ~~any county may authorize the correctional administrator, as defined~~
17 ~~in paragraph (1) of subdivision (j), to establish a program under~~
18 ~~which inmates being held in lieu of bail in a county jail or other~~
19 ~~county correctional facility may be required to participate in an~~
20 ~~electronic monitoring program if the conditions specified in~~
21 ~~subdivision (a) are met.~~

22 ~~(c) (1) In order to qualify for participation in an electronic~~
23 ~~monitoring program pursuant to this section, the inmate must be~~
24 ~~a minimum security inmate with no holds or outstanding warrants~~
25 ~~and one of the following circumstances must exist:~~

26 ~~(A) The inmate has been in held custody for at least 30 calendar~~
27 ~~days from the date of arraignment pending disposition of only~~
28 ~~misdemeanor charges.~~

29 ~~(B) The inmate has been held in custody pending disposition~~
30 ~~of charges for at least 60 calendar days from the date of~~
31 ~~arraignment.~~

32 ~~(2) All participants shall be subject to discretionary review by~~
33 ~~the correctional administrator consistent with this section.~~

34 ~~(d) The county board of supervisors may prescribe reasonable~~
35 ~~rules and regulations under which an electronic monitoring program~~
36 ~~may operate. The participant shall be informed in writing of the~~
37 ~~rules and regulations of the program, including, but not limited to,~~
38 ~~all of the following:~~

1 (1) The participant shall remain within the interior premises of
2 his or her residence during the hours designated by the correctional
3 administrator.

4 (2) The participant shall admit any person or agent designated
5 by the correctional administrator into his or her residence at any
6 time for purposes of verifying the participant's compliance with
7 the conditions of his or her detention.

8 (3) The electronic monitoring may include global positioning
9 system devices or other supervising devices for the purpose of
10 helping to verify the participant's compliance with the rules and
11 regulations of the electronic detention program. The devices shall
12 not be used to eavesdrop or record any conversation, except a
13 conversation between the participant and the person supervising
14 the participant to be used solely for the purposes of voice
15 identification.

16 (4) The correctional administrator in charge of the county
17 correctional facility from which the participant was released may,
18 without further order of the court, immediately retake the person
19 into custody if the electronic monitoring or supervising devices
20 are unable for any reason to properly perform their function at the
21 designated place of home detention, if the person fails to remain
22 within the place of home detention or if the person for any other
23 reason no longer meets the established criteria under this section.

24 (e) The rules and regulations and administrative policy of the
25 program shall be reviewed on an annual basis by the county board
26 of supervisors and the correctional administrator. The rules and
27 regulations shall be given to every participant.

28 (f) Whenever the peace officer supervising a participant has
29 reasonable cause to believe that the participant is not complying
30 with the rules or conditions of the program, or that the electronic
31 monitoring devices are unable to function properly in the
32 designated place of confinement, the peace officer may, under
33 general or specific authorization of the correctional administrator,
34 and without a warrant of arrest, retake the person into custody.

35 (g) (1) Nothing in this section shall be construed to require the
36 correctional administrator to place a person in this program if it
37 appears from the record that the person has not satisfactorily
38 complied with reasonable rules and regulations while in custody.
39 A person shall be eligible for participation in an electronic
40 monitoring program only if the correctional administrator

1 concludes that the person meets the criteria for release established
2 under this section and that the person's participation is consistent
3 with any reasonable rules and regulations prescribed by the board
4 of supervisors or the administrative policy of the correctional
5 administrator.

6 (2) The correctional administrator, or his or her designee, shall
7 have discretionary authority consistent with this section to place
8 inmates pursuant to this section as an alternative to physical
9 custody. All persons removed from program participation shall be
10 notified in writing of the specific reasons for the removal. The
11 notice of removal shall include the participant's appeal rights, as
12 established by program administrative policy.

13 (h) The correctional administrator may permit electronic
14 monitoring program participants to seek and retain employment
15 in the community, attend psychological counseling sessions or
16 educational or vocational training classes, or seek medical and
17 dental assistance. Willful failure of the program participant to
18 return to the place of home detention later than the expiration of
19 any period of time during which he or she is authorized to be away
20 from the place of home detention pursuant to this section and
21 unauthorized departures from the place of home detention are
22 punishable as provided in subdivision (e) of Section 4532.

23 (i) Persons participating in this program shall not be charged
24 fees or costs for the program.

25 (j) For purposes of this section, the following terms have the
26 following meanings:

27 (1) "Correctional administrator" means the sheriff, probation
28 officer, or director of the county department of corrections.

29 (2) "Electronic monitoring program" includes, but is not limited
30 to, home detention programs, work furlough programs, and work
31 release programs.

32 (3) "Minimum security inmate" means an inmate who, by
33 established local classification criteria, would be eligible for
34 placement in a Type IV local detention facility, as described in
35 Title 15 of the California Code of Regulations.

36 (k) Notwithstanding any other law, upon request of a local law
37 enforcement agency with jurisdiction over the location where a
38 participant in an electronic monitoring program is placed, the
39 correctional administrator shall provide the following information
40 regarding participants in the electronic monitoring program:

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

2 (2) The offense or offenses alleged to have been committed by
3 the participant.

4 (3) The period of time the participant will be placed on home
5 detention.

6 (4) Whether the participant successfully completed the
7 prescribed period of home detention or was returned to a county
8 correctional facility, and if the person was returned to a county
9 correctional facility, the reason for the return.

10 (5) The gender and ethnicity of the participant.

11 (f) Any information received by a law enforcement agency
12 pursuant to subdivision (k) shall be used only for the purpose of
13 monitoring the impact of home electronic monitoring programs
14 on the community.

15 (m) It is the intent of the Legislature that electronic monitoring
16 programs established under this section maintain the highest public
17 confidence, credibility, and public safety. In the furtherance of
18 these standards, the following shall apply:

19 (1) The correctional administrator, with the approval of the
20 board of supervisors, may administer an electronic monitoring
21 program as provided in this section pursuant to written contracts
22 with appropriate public or private agencies or entities to provide
23 specified program services. No public or private agency or entity
24 may operate a home detention program pursuant to this section in
25 any county without a written contract with that county's
26 correctional administrator. No public or private agency or entity
27 entering into a contract may itself employ any person who is in
28 the electronic monitoring program.

29 (2) Program participants shall undergo the normal booking
30 process for arrestees entering the jail. All electronic monitoring
31 program participants shall be supervised.

32 (3) (A) All privately operated electronic monitoring programs
33 shall be under the jurisdiction of, and subject to the terms and
34 conditions of the contract entered into with, the correctional
35 administrator.

36 (B) Each contract specified in subparagraph (A) shall include,
37 but not be limited to, all of the following:

38 (i) A provision whereby the private agency or entity agrees to
39 operate in compliance with any available standards and all state
40 and county laws applicable to the operation of electronic

1 monitoring programs and the supervision of sentenced offenders
2 in an electronic monitoring program.

3 ~~(ii) A provision that clearly defines areas of respective~~
4 ~~responsibility and liability of the county and the private agency or~~
5 ~~entity.~~

6 ~~(iii) A provision that requires the private agency or entity to~~
7 ~~demonstrate evidence of financial responsibility, submitted to and~~
8 ~~approved by the board of supervisors, in amounts and under~~
9 ~~conditions sufficient to fully indemnify the county for reasonably~~
10 ~~foreseeable public liability, including legal defense costs, that may~~
11 ~~arise from, or be proximately caused by, acts or omissions of the~~
12 ~~contractor.~~

13 ~~(iv) A provision that requires the private agency or entity to~~
14 ~~provide evidence of financial responsibility, such as certificates~~
15 ~~of insurance or copies of insurance policies, prior to commencing~~
16 ~~any operations pursuant to the contract or at any time requested~~
17 ~~by the board of supervisors or correctional administrator.~~

18 ~~(v) A provision that requires an annual review by the~~
19 ~~correctional administrator to ensure compliance with requirements~~
20 ~~set by the board of supervisors and for adjustment of the financial~~
21 ~~responsibility requirements if warranted by caseload changes or~~
22 ~~other factors.~~

23 ~~(vi) A provision that permits the correctional administrator to~~
24 ~~immediately terminate the contract with a private agency or entity~~
25 ~~at any time that the contractor fails to demonstrate evidence of~~
26 ~~financial responsibility.~~

27 ~~(C) All privately operated electronic monitoring programs shall~~
28 ~~comply with all applicable ordinances and regulations specified~~
29 ~~in subdivision (a) of Section 1208.~~

30 ~~(D) The board of supervisors, the correctional administrator,~~
31 ~~and the designee of the correctional administrator shall comply~~
32 ~~with Section 1090 of the Government Code in the consideration,~~
33 ~~making, and execution of contracts pursuant to this section.~~

34 ~~(E) The failure of the private agency or entity to comply with~~
35 ~~state or county laws or with the standards established by the~~
36 ~~contract and with the correctional administrator shall constitute~~
37 ~~cause to terminate the contract.~~

38 ~~(F) Upon the discovery that a private agency or entity with~~
39 ~~which there is a contract is not in compliance with this paragraph,~~
40 ~~the correctional administrator shall give 60 days' notice to the~~

1 director of the private agency or entity that the contract may be
2 canceled if the specified deficiencies are not corrected.

3 (G) Shorter notice may be given or the contract may be canceled
4 without notice whenever a serious threat to public safety is present
5 because the private agency or entity has failed to comply with this
6 section.

7 (H) For purposes of this section, "evidence of financial
8 responsibility" may include, but is not limited to, certified copies
9 of any of the following:

10 (i) A current liability insurance policy.

11 (ii) A current errors and omissions insurance policy.

12 (iii) A surety bond.

13 (n) This section shall remain in effect only until January 1, 2016,
14 and as of that date is repealed, unless a later enacted statute, that
15 is enacted before January 1, 2016, deletes or extends that date.

16 SEC. 3. Section 1208.2 of the Penal Code is amended to read:

17 1208.2. (a) (1) This section shall apply to individuals
18 authorized to participate in a work furlough program pursuant to
19 Section 1208, or to individuals authorized to participate in an
20 electronic home detention program pursuant to Section 1203.016
21 or 1203.018, or to individuals authorized to participate in a county
22 parole program pursuant to Article 3.5 (commencing with Section
23 3074) of Chapter 8 of Title 1 of Part 3.

24 (2) As used in this section, as appropriate, "administrator" means
25 the sheriff, probation officer, director of the county department of
26 corrections, or county parole administrator.

27 (b) (1) A board of supervisors which implements programs
28 identified in paragraph (1) of subdivision (a), may prescribe a
29 program administrative fee and an application fee, that together
30 shall not exceed the pro rata cost of the program to which the
31 person is accepted, including equipment, supervision, and other
32 operating costs, except as provided in paragraph (2).

33 (2) With regard to a privately operated electronic home detention
34 program pursuant to Section 1203.016 or 1203.018, the limitation,
35 described in paragraph (1), in prescribing a program administrative
36 fee and application fee shall not apply.

37 (c) The correctional administrator, or his or her designee, shall
38 not have access to a person's financial data prior to granting or
39 denying a person's participation in, or assigning a person to, any
40 of the programs governed by this section.

1 ~~(d) The correctional administrator, or his or her designee, shall~~
2 ~~not consider a person's ability or inability to pay all or a portion~~
3 ~~of the program fee for the purposes of granting or denying a~~
4 ~~person's participation in, or assigning a person to, any of the~~
5 ~~programs governed by this section.~~

6 ~~(e) For purposes of this section, "ability to pay" means the~~
7 ~~overall capability of the person to reimburse the costs, or a portion~~
8 ~~of the costs, of providing supervision and shall include, but shall~~
9 ~~not be limited to, consideration of all of the following factors:~~

10 ~~(1) Present financial position.~~

11 ~~(2) Reasonably discernible future financial position. In no event~~
12 ~~shall the administrator, or his or her designee, consider a period~~
13 ~~of more than six months from the date of acceptance into the~~
14 ~~program for purposes of determining reasonably discernible future~~
15 ~~financial position.~~

16 ~~(3) Likelihood that the person shall be able to obtain~~
17 ~~employment within the six-month period from the date of~~
18 ~~acceptance into the program.~~

19 ~~(4) Any other factor that may bear upon the person's financial~~
20 ~~capability to reimburse the county for the fees fixed pursuant to~~
21 ~~subdivision (b).~~

22 ~~(f) The administrator, or his or her designee, may charge a~~
23 ~~person the fee set by the board of supervisors or any portion of the~~
24 ~~fee and may determine the method and frequency of payment. Any~~
25 ~~fee the administrator, or his or her designee, charges pursuant to~~
26 ~~this section shall not in any case be in excess of the fee set by the~~
27 ~~board of supervisors and shall be based on the person's ability to~~
28 ~~pay. The administrator, or his or her designee, shall have the option~~
29 ~~to waive the fees for program supervision when deemed necessary,~~
30 ~~justified, or in the interests of justice. The fees charged for program~~
31 ~~supervision may be modified or waived at any time based on the~~
32 ~~changing financial position of the person. All fees paid by persons~~
33 ~~for program supervision shall be deposited into the general fund~~
34 ~~of the county.~~

35 ~~(g) No person shall be denied consideration for, or be removed~~
36 ~~from, participation in any of the programs to which this section~~
37 ~~applies because of an inability to pay all or a portion of the program~~
38 ~~supervision fees. At any time during a person's sentence, the person~~
39 ~~may request that the administrator, or his or her designee, modify~~

1 or suspend the payment of fees on the grounds of a change in
2 circumstances with regard to the person's ability to pay.

3 (h) If the person and the administrator, or his or her designee,
4 are unable to come to an agreement regarding the person's ability
5 to pay, or the amount which is to be paid, or the method and
6 frequency with which payment is to be made, the administrator,
7 or his or her designee, shall advise the appropriate court of the fact
8 that the person and administrator, or his or her designee, have not
9 been able to reach agreement and the court shall then resolve the
10 disagreement by determining the person's ability to pay, the amount
11 which is to be paid, and the method and frequency with which
12 payment is to be made.

13 (i) At the time a person is approved for any of the programs to
14 which this section applies, the administrator, or his or her designee,
15 shall furnish the person a written statement of the person's rights
16 in regard to the program for which the person has been approved,
17 including, but not limited to, both of the following:

18 (1) The fact that the person cannot be denied consideration for
19 or removed from participation in the program because of an
20 inability to pay.

21 (2) The fact that if the person is unable to reach agreement with
22 the administrator, or his or her designee, regarding the person's
23 ability to pay, the amount which is to be paid, or the manner and
24 frequency with which payment is to be made, that the matter shall
25 be referred to the court to resolve the differences.

26 (j) In all circumstances where a county board of supervisors has
27 approved a program administrator, as described in Section
28 1203.016, 1203.018, or 1208, to enter into a contract with a private
29 agency or entity to provide specified program services, the program
30 administrator shall ensure that the provisions of this section are
31 contained within any contractual agreement for this purpose. All
32 privately operated home detention programs shall comply with all
33 appropriate, applicable ordinances and regulations specified in
34 subdivision (a) of Section 1208.

35 (k) This section shall remain in effect only until January 1, 2016,
36 and as of that date is repealed, unless a later enacted statute, that
37 is enacted before January 1, 2016, deletes or extends that date.

38 SEC. 4. Section 1208.2 is added to the Penal Code, to read:

39 1208.2. (a) (1) This section shall apply to individuals
40 authorized to participate in a work furlough program pursuant to

1 ~~Section 1208, or to individuals authorized to participate in an~~
2 ~~electronic home detention program pursuant to Section 1203.016,~~
3 ~~or to individuals authorized to participate in a county parole~~
4 ~~program pursuant to Article 3.5 (commencing with Section 3074)~~
5 ~~of Chapter 8 of Title 1 of Part 3.~~

6 (2) ~~As used in this section, as appropriate, "administrator" means~~
7 ~~the sheriff, probation officer, director of the county department of~~
8 ~~corrections, or county parole administrator.~~

9 (b) (1) ~~A board of supervisors which implements programs~~
10 ~~identified in paragraph (1) of subdivision (a), may prescribe a~~
11 ~~program administrative fee and an application fee, that together~~
12 ~~shall not exceed the pro rata cost of the program to which the~~
13 ~~person is accepted, including equipment, supervision, and other~~
14 ~~operating costs, except as provided in paragraph (2).~~

15 (2) ~~With regard to a privately operated electronic home detention~~
16 ~~program pursuant to Section 1203.016, the limitation, described~~
17 ~~in paragraph (1), in prescribing a program administrative fee and~~
18 ~~application fee shall not apply.~~

19 (c) ~~The correctional administrator, or his or her designee, shall~~
20 ~~not have access to a person's financial data prior to granting or~~
21 ~~denying a person's participation in, or assigning a person to, any~~
22 ~~of the programs governed by this section.~~

23 (d) ~~The correctional administrator, or his or her designee, shall~~
24 ~~not consider a person's ability or inability to pay all or a portion~~
25 ~~of the program fee for the purposes of granting or denying a~~
26 ~~person's participation in, or assigning a person to, any of the~~
27 ~~programs governed by this section.~~

28 (e) ~~For purposes of this section, "ability to pay" means the~~
29 ~~overall capability of the person to reimburse the costs, or a portion~~
30 ~~of the costs, of providing supervision and shall include, but shall~~
31 ~~not be limited to, consideration of all of the following factors:~~

32 (1) ~~Present financial position.~~

33 (2) ~~Reasonably discernible future financial position. In no event~~
34 ~~shall the administrator, or his or her designee, consider a period~~
35 ~~of more than six months from the date of acceptance into the~~
36 ~~program for purposes of determining reasonably discernible future~~
37 ~~financial position.~~

38 (3) ~~Likelihood that the person shall be able to obtain~~
39 ~~employment within the six-month period from the date of~~
40 ~~acceptance into the program.~~

1 ~~(4) Any other factor that may bear upon the person's financial~~
2 ~~capability to reimburse the county for the fees fixed pursuant to~~
3 ~~subdivision (b).~~

4 ~~(f) The administrator, or his or her designee, may charge a~~
5 ~~person the fee set by the board of supervisors or any portion of the~~
6 ~~fee and may determine the method and frequency of payment. Any~~
7 ~~fee the administrator, or his or her designee, charges pursuant to~~
8 ~~this section shall not in any case be in excess of the fee set by the~~
9 ~~board of supervisors and shall be based on the person's ability to~~
10 ~~pay. The administrator, or his or her designee, shall have the option~~
11 ~~to waive the fees for program supervision when deemed necessary,~~
12 ~~justified, or in the interests of justice. The fees charged for program~~
13 ~~supervision may be modified or waived at any time based on the~~
14 ~~changing financial position of the person. All fees paid by persons~~
15 ~~for program supervision shall be deposited into the general fund~~
16 ~~of the county.~~

17 ~~(g) No person shall be denied consideration for, or be removed~~
18 ~~from, participation in any of the programs to which this section~~
19 ~~applies because of an inability to pay all or a portion of the program~~
20 ~~supervision fees. At any time during a person's sentence, the person~~
21 ~~may request that the administrator, or his or her designee, modify~~
22 ~~or suspend the payment of fees on the grounds of a change in~~
23 ~~circumstances with regard to the person's ability to pay.~~

24 ~~(h) If the person and the administrator, or his or her designee,~~
25 ~~are unable to come to an agreement regarding the person's ability~~
26 ~~to pay, or the amount which is to be paid, or the method and~~
27 ~~frequency with which payment is to be made, the administrator,~~
28 ~~or his or her designee, shall advise the appropriate court of the fact~~
29 ~~that the person and administrator, or his or her designee, have not~~
30 ~~been able to reach agreement and the court shall then resolve the~~
31 ~~disagreement by determining the person's ability to pay, the amount~~
32 ~~which is to be paid, and the method and frequency with which~~
33 ~~payment is to be made.~~

34 ~~(i) At the time a person is approved for any of the programs to~~
35 ~~which this section applies, the administrator, or his or her designee,~~
36 ~~shall furnish the person a written statement of the person's rights~~
37 ~~in regard to the program for which the person has been approved,~~
38 ~~including, but not limited to, both of the following:~~

1 (1) The fact that the person cannot be denied consideration for
2 or removed from participation in the program because of an
3 inability to pay.

4 (2) The fact that if the person is unable to reach agreement with
5 the administrator, or his or her designee, regarding the person's
6 ability to pay, the amount which is to be paid, or the manner and
7 frequency with which payment is to be made, that the matter shall
8 be referred to the court to resolve the differences.

9 (j) In all circumstances where a county board of supervisors has
10 approved a program administrator, as described in Sections
11 1203.016 and 1208, to enter into a contract with a private agency
12 or entity to provide specified program services, the program
13 administrator shall ensure that the provisions of this section are
14 contained within any contractual agreement for this purpose. All
15 privately operated home detention programs shall comply with all
16 appropriate, applicable ordinances and regulations specified in
17 subdivision (a) of Section 1208.

18 (k) This section shall become operative on January 1, 2016.

19 SEC. 5. Section 1269d is added to the Penal Code, to read:

20 1269d. (a) Notwithstanding any other provision of law, if a
21 defendant is arrested without a warrant for a bailable offense and
22 meets the criteria specified in paragraph (1) of subdivision (c) of
23 Section 1203.018, he or she may, either personally or through his
24 or her attorney, friend, or family member, make an application to
25 the magistrate after 10 court days from the date of arraignment for
26 release on bail reduced by up to 75 percent of the amount of the
27 defendant's bail.

28 (b) A court may reduce a defendant's bail by up to 75 percent
29 pursuant to this section only if a defendant is placed in an electronic
30 monitoring program authorized by a county board of supervisors
31 pursuant to Section 1203.018, and the court and correctional
32 administrator make determinations that the defendant is eligible
33 to participate in an electronic monitoring program as defined in
34 Section 1203.018.

35 (c) Nothing in this section is intended to affect the provisions
36 of Section 1305.

37 (d) This section shall remain in effect only until January 1, 2016,
38 and as of that date is repealed, unless a later enacted statute, that
39 is enacted before January 1, 2016, deletes or extends that date.

40 SEC. 6. Section 2900.5 of the Penal Code is amended to read:

1 2900.5. (a) In all felony and misdemeanor convictions, either
2 by plea or by verdict, when the defendant has been in custody,
3 including, but not limited to, any time spent in a jail, camp, work
4 furlough facility, halfway house, rehabilitation facility, hospital,
5 prison, juvenile detention facility, or similar residential institution,
6 all days of custody of the defendant, including days served as a
7 condition of probation in compliance with a court order, and
8 credited to the period of confinement pursuant to Section 4019,
9 and days served in home detention pursuant to Section 1203.018
10 or 1203.019, shall be credited upon his or her term of
11 imprisonment, or credited to any fine on a proportional basis,
12 including, but not limited to, base fines and restitution fines, which
13 may be imposed, at the rate of not less than thirty dollars (\$30)
14 per day, or more, in the discretion of the court imposing the
15 sentence. If the total number of days in custody exceeds the number
16 of days of the term of imprisonment to be imposed, the entire term
17 of imprisonment shall be deemed to have been served. In any case
18 where the court has imposed both a prison or jail term of
19 imprisonment and a fine, any days to be credited to the defendant
20 shall first be applied to the term of imprisonment imposed, and
21 thereafter the remaining days, if any, shall be applied to the fine
22 on a proportional basis, including, but not limited to, base fines
23 and restitution fines.

24 (b) For the purposes of this section, credit shall be given only
25 where the custody to be credited is attributable to proceedings
26 related to the same conduct for which the defendant has been
27 convicted. Credit shall be given only once for a single period of
28 custody attributable to multiple offenses for which a consecutive
29 sentence is imposed.

30 (c) For the purposes of this section, "term of imprisonment"
31 includes any period of imprisonment imposed as a condition of
32 probation or otherwise ordered by a court in imposing or
33 suspending the imposition of any sentence, and also includes any
34 term of imprisonment, including any period of imprisonment prior
35 to release on parole and any period of imprisonment and parole,
36 prior to discharge, whether established or fixed by statute, by any
37 court, or by any duly authorized administrative agency.

38 (d) It shall be the duty of the court imposing the sentence to
39 determine the date or dates of any admission to, and release from,
40 custody prior to sentencing and the total number of days to be

1 credited pursuant to this section. The total number of days to be
2 credited shall be contained in the abstract of judgment provided
3 for in Section 1213.

4 (c) It shall be the duty of any agency to which a person is
5 committed to apply the credit provided for in this section for the
6 period between the date of sentencing and the date the person is
7 delivered to the agency.

8 (f) If a defendant serves time in a camp, work furlough facility,
9 halfway house, rehabilitation facility, hospital, juvenile detention
10 facility, similar residential facility, or home detention program
11 pursuant to Section 1203.016, 1203.017, 1203.018, or 1203.019
12 in lieu of imprisonment in a county jail, and the statute under which
13 the defendant is sentenced requires a mandatory minimum period
14 of time in jail, the time spent in these facilities or programs shall
15 qualify as mandatory time in jail.

16 (g) Notwithstanding any other provision of this code as it
17 pertains to the sentencing of convicted offenders, nothing in this
18 section is to be construed as authorizing the sentencing of convicted
19 offenders to any of the facilities or programs mentioned herein.

20 (h) This section shall become operative on January 1, 1999.

21 (i) This section shall remain in effect only until January 1, 2016,
22 and as of that date is repealed, unless a later enacted statute, that
23 is enacted before January 1, 2016, deletes or extends that date.

24 SEC. 7. Section 2900.5 is added to the Penal Code, to read:

25 2900.5. (a) In all felony and misdemeanor convictions, either
26 by plea or by verdict, when the defendant has been in custody,
27 including, but not limited to, any time spent in a jail, camp, work
28 furlough facility, halfway house, rehabilitation facility, hospital,
29 prison, juvenile detention facility, or similar residential institution,
30 all days of custody of the defendant, including days served as a
31 condition of probation in compliance with a court order, and
32 including days credited to the period of confinement pursuant to
33 Section 4019, shall be credited upon his or her term of
34 imprisonment, or credited to any fine on a proportional basis,
35 including, but not limited to, base fines and restitution fines, which
36 may be imposed, at the rate of not less than thirty dollars (\$30)
37 per day, or more, in the discretion of the court imposing the
38 sentence. If the total number of days in custody exceeds the number
39 of days of the term of imprisonment to be imposed, the entire term
40 of imprisonment shall be deemed to have been served. In any case

1 ~~where the court has imposed both a prison or jail term of~~
2 ~~imprisonment and a fine, any days to be credited to the defendant~~
3 ~~shall first be applied to the term of imprisonment imposed, and~~
4 ~~thereafter the remaining days, if any, shall be applied to the fine~~
5 ~~on a proportional basis, including, but not limited to, base fines~~
6 ~~and restitution fines.~~

7 (b) ~~For the purposes of this section, credit shall be given only~~
8 ~~where the custody to be credited is attributable to proceedings~~
9 ~~related to the same conduct for which the defendant has been~~
10 ~~convicted. Credit shall be given only once for a single period of~~
11 ~~custody attributable to multiple offenses for which a consecutive~~
12 ~~sentence is imposed.~~

13 (c) ~~For the purposes of this section, "term of imprisonment"~~
14 ~~includes any period of imprisonment imposed as a condition of~~
15 ~~probation or otherwise ordered by a court in imposing or~~
16 ~~suspending the imposition of any sentence, and also includes any~~
17 ~~term of imprisonment, including any period of imprisonment prior~~
18 ~~to release on parole and any period of imprisonment and parole,~~
19 ~~prior to discharge, whether established or fixed by statute, by any~~
20 ~~court, or by any duly authorized administrative agency.~~

21 (d) ~~It shall be the duty of the court imposing the sentence to~~
22 ~~determine the date or dates of any admission to, and release from,~~
23 ~~custody prior to sentencing and the total number of days to be~~
24 ~~credited pursuant to this section. The total number of days to be~~
25 ~~credited shall be contained in the abstract of judgment provided~~
26 ~~for in Section 1213.~~

27 (e) ~~It shall be the duty of any agency to which a person is~~
28 ~~committed to apply the credit provided for in this section for the~~
29 ~~period between the date of sentencing and the date the person is~~
30 ~~delivered to the agency.~~

31 (f) ~~If a defendant serves time in a camp, work furlough facility,~~
32 ~~halfway house, rehabilitation facility, hospital, juvenile detention~~
33 ~~facility, similar residential facility, or home detention program in~~
34 ~~lieu of imprisonment in a county jail, and the statute under which~~
35 ~~the defendant is sentenced requires a mandatory minimum period~~
36 ~~of time in jail, the time spent in these facilities or programs shall~~
37 ~~qualify as mandatory time in jail.~~

38 (g) ~~Notwithstanding any other provision of this code as it~~
39 ~~pertains to the sentencing of convicted offenders, nothing in this~~

1 section is to be construed as authorizing the sentencing of convicted
2 offenders to any of the facilities or programs mentioned herein.

3 (b) This section shall become operative on January 1, 2016.

4 SEC. 8. Section 4532 of the Penal Code is amended to read:

5 4532. (a) (1) Every prisoner arrested and booked for, charged
6 with, or convicted of a misdemeanor, and every person committed
7 under the terms of former Section 5654, 5656, or 5677 of the
8 Welfare and Institutions Code as an inebriate, who is confined in
9 any county or city jail, prison, industrial farm, or industrial road
10 camp, is engaged on any county road or other county work, is in
11 the lawful custody of any officer or person, is employed or
12 continuing in his or her regular educational program or authorized
13 to secure employment or education away from the place of
14 confinement, pursuant to the Cobey Work Furlough Law (Section
15 1208), is authorized for temporary release for family emergencies
16 or for purposes preparatory to his or her return to the community
17 pursuant to Section 4018.6, or is a participant in a home detention
18 program pursuant to Section 1203.016, and who thereafter escapes
19 or attempts to escape from the county or city jail, prison, industrial
20 farm, or industrial road camp or from the custody of the officer or
21 person in charge of him or her while engaged in or going to or
22 returning from the county work or from the custody of any officer
23 or person in whose lawful custody he or she is, or from the place
24 of confinement in a home detention program pursuant to Section
25 1203.016, is guilty of a felony and, if the escape or attempt to
26 escape was not by force or violence, is punishable by imprisonment
27 in the state prison for a determinate term of one year and one day,
28 or in a county jail not exceeding one year.

29 (2) If the escape or attempt to escape described in paragraph
30 (1) is committed by force or violence, the person is guilty of a
31 felony, punishable by imprisonment in the state prison for two,
32 four, or six years to be served consecutively, or in a county jail
33 not exceeding one year. When the second term of imprisonment
34 is to be served in a county jail, it shall commence from the time
35 the prisoner otherwise would have been discharged from jail.

36 (3) A conviction of a violation of this subdivision, or a violation
37 of subdivision (b) involving a participant of a home detention
38 program pursuant to Section 1203.016, that is not committed by
39 force or violence, shall not be charged as a prior felony conviction
40 in any subsequent prosecution for a public offense.

1 ~~(b) (1) Every prisoner arrested and booked for, charged with,~~
2 ~~or convicted of a felony, and every person committed by order of~~
3 ~~the juvenile court, who is confined in any county or city jail, prison,~~
4 ~~industrial farm, or industrial road camp, is engaged on any county~~
5 ~~road or other county work, is in the lawful custody of any officer~~
6 ~~or person, or is confined pursuant to Section 4011.9, is a participant~~
7 ~~in a home detention program pursuant to Section 1203.016, who~~
8 ~~escapes or attempts to escape from a county or city jail, prison,~~
9 ~~industrial farm, or industrial road camp or from the custody of the~~
10 ~~officer or person in charge of him or her while engaged in or going~~
11 ~~to or returning from the county work or from the custody of any~~
12 ~~officer or person in whose lawful custody he or she is, or from~~
13 ~~confinement pursuant to Section 4011.9, or from the place of~~
14 ~~confinement in a home detention program pursuant to Section~~
15 ~~1203.016, is guilty of a felony and, if the escape or attempt to~~
16 ~~escape was not by force or violence, is punishable by imprisonment~~
17 ~~in the state prison for 16 months, two years, or three years, to be~~
18 ~~served consecutively, or in a county jail not exceeding one year.~~

19 ~~(2) If the escape or attempt to escape described in paragraph~~
20 ~~(1) is committed by force or violence, the person is guilty of a~~
21 ~~felony, punishable by imprisonment in the state prison for a full~~
22 ~~term of two, four, or six years to be served consecutively to any~~
23 ~~other term of imprisonment, commencing from the time the person~~
24 ~~otherwise would have been released from imprisonment and the~~
25 ~~term shall not be subject to reduction pursuant to subdivision (a)~~
26 ~~of Section 1170.1, or in a county jail for a consecutive term not to~~
27 ~~exceed one year, that term to commence from the time the prisoner~~
28 ~~otherwise would have been discharged from jail.~~

29 ~~(c) Notwithstanding any other law, every prisoner who is a~~
30 ~~participant in an electronic monitoring program pursuant to Section~~
31 ~~1203.018 or 1203.019 who willfully fails to comply with the~~
32 ~~prescribed rules and regulations of that program is guilty of a~~
33 ~~misdemeanor.~~

34 ~~(d) Notwithstanding any other law, every inmate who is a~~
35 ~~participant in an alternative custody program pursuant to Section~~
36 ~~1170.05 who escapes or attempts to escape from the program is~~
37 ~~guilty of a misdemeanor.~~

38 ~~(e) (1) Except in unusual cases where the interests of justice~~
39 ~~would best be served if the person is granted probation, probation~~
40 ~~shall not be granted to any person who is convicted of a felony~~

1 offense under this section in that he or she escaped or attempted
2 to escape from a secure main jail facility, from a court building,
3 or while being transported between the court building and the jail
4 facility.

5 (2) In any case in which a person is convicted of a violation of
6 this section designated as a misdemeanor, he or she shall be
7 confined in a county jail for not less than 90 days nor more than
8 one year except in unusual cases where the interests of justice
9 would best be served by the granting of probation.

10 (3) For the purposes of this subdivision, "main jail facility"
11 means the facility used for the detention of persons pending
12 arraignment, after arraignment, during trial, and upon sentence or
13 commitment. The facility shall not include an industrial farm,
14 industrial road camp, work furlough facility, or any other nonsecure
15 facility used primarily for sentenced prisoners. As used in this
16 subdivision, "secure" means that the facility contains an outer
17 perimeter characterized by the use of physically restricting
18 construction, hardware, and procedures designed to eliminate
19 ingress and egress from the facility except through a closely
20 supervised gate or doorway.

21 (4) If the court grants probation under this subdivision, it shall
22 specify the reason or reasons for that order on the court record.

23 (5) Any sentence imposed under this subdivision shall be served
24 consecutive to any other sentence in effect or pending.

25 (f) The willful failure of a prisoner, whether convicted of a
26 felony or a misdemeanor, to return to his or her place of
27 confinement no later than the expiration of the period that he or
28 she was authorized to be away from that place of confinement, is
29 an escape from that place of confinement. This subdivision applies
30 to a prisoner who is employed or continuing in his or her regular
31 educational program, authorized to secure employment or education
32 pursuant to the Cobey Work Furlough Law (Section 1208),
33 authorized for temporary release for family emergencies or for
34 purposes preparatory to his or her return to the community pursuant
35 to Section 4018.6, or permitted to participate in a home detention
36 program pursuant to Section 1203.016. A prisoner convicted of a
37 misdemeanor who willfully fails to return to his or her place of
38 confinement under this subdivision shall be punished as provided
39 in paragraph (1) of subdivision (a). A prisoner convicted of a felony

1 who willfully fails to return to his or her place of confinement shall
2 be punished as provided in paragraph (1) of subdivision (b).

3 (g) This section shall remain in effect only until January 1, 2016,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2016, deletes or extends that date.

6 SEC. 9. Section 4532 is added to the Penal Code, to read:

7 4532. (a) (1) Every prisoner arrested and booked for, charged
8 with, or convicted of a misdemeanor, and every person committed
9 under the terms of former Section 5654, 5656, or 5677 of the
10 Welfare and Institutions Code as an inebriate, who is confined in
11 any county or city jail, prison, industrial farm, or industrial road
12 camp, is engaged on any county road or other county work, is in
13 the lawful custody of any officer or person, is employed or
14 continuing in his or her regular educational program or authorized
15 to secure employment or education away from the place of
16 confinement, pursuant to the Cobey Work Furlough Law (Section
17 1208), is authorized for temporary release for family emergencies
18 or for purposes preparatory to his or her return to the community
19 pursuant to Section 4018.6, or is a participant in a home detention
20 program pursuant to Section 1203.016, and who thereafter escapes
21 or attempts to escape from the county or city jail, prison, industrial
22 farm, or industrial road camp or from the custody of the officer or
23 person in charge of him or her while engaged in or going to or
24 returning from the county work or from the custody of any officer
25 or person in whose lawful custody he or she is, or from the place
26 of confinement in a home detention program pursuant to Section
27 1203.016, is guilty of a felony and, if the escape or attempt to
28 escape was not by force or violence, is punishable by imprisonment
29 in the state prison for a determinate term of one year and one day,
30 or in a county jail not exceeding one year.

31 (2) If the escape or attempt to escape described in paragraph
32 (1) is committed by force or violence, the person is guilty of a
33 felony, punishable by imprisonment in the state prison for two,
34 four, or six years to be served consecutively, or in a county jail
35 not exceeding one year. When the second term of imprisonment
36 is to be served in a county jail, it shall commence from the time
37 the prisoner otherwise would have been discharged from jail.

38 (3) A conviction of a violation of this subdivision, or a violation
39 of subdivision (b) involving a participant of a home detention
40 program pursuant to Section 1203.016, that is not committed by

1 force or violence, shall not be charged as a prior felony conviction
2 in any subsequent prosecution for a public offense.

3 ~~(b) (1) Every prisoner arrested and booked for, charged with,~~
4 ~~or convicted of a felony, and every person committed by order of~~
5 ~~the juvenile court, who is confined in any county or city jail, prison,~~
6 ~~industrial farm, or industrial road camp, is engaged on any county~~
7 ~~road or other county work, is in the lawful custody of any officer~~
8 ~~or person, or is confined pursuant to Section 4011.9, is a participant~~
9 ~~in a home detention program pursuant to Section 1203.016, who~~
10 ~~escapes or attempts to escape from a county or city jail, prison,~~
11 ~~industrial farm, or industrial road camp or from the custody of the~~
12 ~~officer or person in charge of him or her while engaged in or going~~
13 ~~to or returning from the county work or from the custody of any~~
14 ~~officer or person in whose lawful custody he or she is, or from~~
15 ~~confinement pursuant to Section 4011.9, or from the place of~~
16 ~~confinement in a home detention program pursuant to Section~~
17 ~~1203.016, is guilty of a felony and, if the escape or attempt to~~
18 ~~escape was not by force or violence, is punishable by imprisonment~~
19 ~~in the state prison for 16 months, two years, or three years, to be~~
20 ~~served consecutively, or in a county jail not exceeding one year.~~

21 ~~(2) If the escape or attempt to escape described in paragraph~~
22 ~~(1) is committed by force or violence, the person is guilty of a~~
23 ~~felony, punishable by imprisonment in the state prison for a full~~
24 ~~term of two, four, or six years to be served consecutively to any~~
25 ~~other term of imprisonment, commencing from the time the person~~
26 ~~otherwise would have been released from imprisonment and the~~
27 ~~term shall not be subject to reduction pursuant to subdivision (a)~~
28 ~~of Section 1170.1, or in a county jail for a consecutive term not to~~
29 ~~exceed one year, that term to commence from the time the prisoner~~
30 ~~otherwise would have been discharged from jail.~~

31 ~~(c) Notwithstanding any other law, every inmate who is a~~
32 ~~participant in an alternative custody program pursuant to Section~~
33 ~~1170.05 who escapes or attempts to escape from the program is~~
34 ~~guilty of a misdemeanor.~~

35 ~~(d) (1) Except in unusual cases where the interests of justice~~
36 ~~would best be served if the person is granted probation, probation~~
37 ~~shall not be granted to any person who is convicted of a felony~~
38 ~~offense under this section in that he or she escaped or attempted~~
39 ~~to escape from a secure main jail facility, from a court building,~~

1 or while being transported between the court building and the jail
2 facility.

3 (2) ~~In any case in which a person is convicted of a violation of~~
4 ~~this section designated as a misdemeanor, he or she shall be~~
5 ~~confined in a county jail for not less than 90 days nor more than~~
6 ~~one year except in unusual cases where the interests of justice~~
7 ~~would best be served by the granting of probation.~~

8 (3) ~~For the purposes of this subdivision, "main jail facility"~~
9 ~~means the facility used for the detention of persons pending~~
10 ~~arraignment, after arraignment, during trial, and upon sentence or~~
11 ~~commitment. The facility shall not include an industrial farm,~~
12 ~~industrial road camp, work furlough facility, or any other nonsecure~~
13 ~~facility used primarily for sentenced prisoners. As used in this~~
14 ~~subdivision, "secure" means that the facility contains an outer~~
15 ~~perimeter characterized by the use of physically restricting~~
16 ~~construction, hardware, and procedures designed to eliminate~~
17 ~~ingress and egress from the facility except through a closely~~
18 ~~supervised gate or doorway.~~

19 (4) ~~If the court grants probation under this subdivision, it shall~~
20 ~~specify the reason or reasons for that order on the court record.~~

21 (5) ~~Any sentence imposed under this subdivision shall be served~~
22 ~~consecutive to any other sentence in effect or pending.~~

23 (c) ~~The willful failure of a prisoner, whether convicted of a~~
24 ~~felony or a misdemeanor, to return to his or her place of~~
25 ~~confinement no later than the expiration of the period that he or~~
26 ~~she was authorized to be away from that place of confinement, is~~
27 ~~an escape from that place of confinement. This subdivision applies~~
28 ~~to a prisoner who is employed or continuing in his or her regular~~
29 ~~educational program, authorized to secure employment or education~~
30 ~~pursuant to the Cobey Work Furlough Law (Section 1208),~~
31 ~~authorized for temporary release for family emergencies or for~~
32 ~~purposes preparatory to his or her return to the community pursuant~~
33 ~~to Section 4018.6, or permitted to participate in a home detention~~
34 ~~program pursuant to Section 1203.016. A prisoner convicted of a~~
35 ~~misdemeanor who willfully fails to return to his or her place of~~
36 ~~confinement under this subdivision shall be punished as provided~~
37 ~~in paragraph (1) of subdivision (a). A prisoner convicted of a felony~~
38 ~~who willfully fails to return to his or her place of confinement shall~~
39 ~~be punished as provided in paragraph (1) of subdivision (b).~~

40 (f) ~~This section shall become operative January 1, 2016.~~

1 ~~SEC. 10. No reimbursement is required by this act pursuant to~~
2 ~~Section 6 of Article XIII B of the California Constitution because~~
3 ~~the only costs that may be incurred by a local agency or school~~
4 ~~district will be incurred because this act creates a new crime or~~
5 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
6 ~~for a crime or infraction, within the meaning of Section 17556 of~~
7 ~~the Government Code, or changes the definition of a crime within~~
8 ~~the meaning of Section 6 of Article XIII B of the California~~
9 ~~Constitution.~~