

Assembly Bill No. 134

CHAPTER 47

An act to add and repeal Section 7923.601 of the Government Code, to amend Sections 832.7, 851.93, 1203.4, 1203.4b, 1203.41, 1203.42, 1203.425, 1203.45, 2020, 2021, 2022, 5002, 5003, 5006, 13777, and 30012 of, to amend the heading of Article 2 (commencing with Section 2020) of Chapter 1 of Title 1 of Part 3 of, to repeal Section 1203.426 of, and to add Sections 5033 and 6405 to, the Penal Code, to add Article 6.5.1 (commencing with Section 10199) to Chapter 1 of Part 2 of Division 2 of the Public Contract Code, to add Sections 5029.7 and 21097 to the Public Resources Code, and to amend Sections 209, 875, and 885 of, and add Section 208.55 to, the Welfare and Institutions Code, relating to public safety, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor July 10, 2023. Filed with Secretary of State July 10, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 134, Committee on Budget. Public safety trailer bill.

(1) Existing law, the California Public Records Act, authorizes the inspection and copying of any public record except where specifically prohibited by law. Existing law, with specified exemptions, makes confidential and exempts from disclosure the personnel records of peace officers and custodial records and certain other records maintained by their employing agencies. Existing law provides that this exemption from disclosure does not apply to investigations of these officers or their employing agencies and related proceedings conducted by a grand jury, a district attorney's office, or the Attorney General's office.

Existing law establishes the Commission on Peace Officer Standards and Training (POST) to, among other functions, certify the eligibility of those persons appointed as peace officers throughout the state. Existing law establishes the Peace Officer Standards Accountability Division within POST to review investigations conducted by law enforcement agencies and to conduct additional investigations into serious misconduct that may provide grounds for suspension or revocation of a peace officer's certification.

This bill would exempt from the aforementioned confidentiality provisions, investigations of peace officers and custodial officers or their employing agencies and related proceedings conducted by POST. This bill would provide that, until January 1, 2027, specified records in the possession of POST related to these functions are not public records subject to disclosure, although those same records may be subject to disclosure by the agency that employs or previously employed the peace officer.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(2) Existing law requires the Department of Justice, on a monthly basis, to review the records in the statewide criminal justice databases and identify persons who are eligible for arrest record relief and automatic conviction record relief. Commencing on July 1, 2023, existing law makes arrest record relief available to a person who has been arrested for a felony, including a felony punishable in the state prison, as specified. Commencing on July 1, 2023, existing law makes conviction record relief available for a defendant convicted, on or after January 1, 2005, of a felony for which they did not complete probation without revocation if the defendant appears to have completed all terms of incarceration, probation, mandatory supervision, postrelease community supervision, and parole, and a period of 4 years has elapsed during which the defendant was not convicted of a new felony offense, except as specified.

This bill would delay the implementation of these provisions until July 1, 2024.

(3) Existing law authorizes the court, in its discretion and in the interest of justice in specified cases, to permit the defendant to withdraw their plea of guilty or nolo contendere and enter a plea of not guilty, or, if the defendant has been convicted after a plea of not guilty, to set aside the verdict of guilty, and to dismiss the accusations or information against the defendant and release the defendant from all penalties and disabilities resulting from the offense for which they have been convicted. Existing law authorizes a person who was under 18 years of age at the time of commission of a misdemeanor to, in specified circumstances, petition the court for an order sealing the record of conviction and other official records in the case. Existing law authorizes the court to require the defendant or petitioner in these circumstances to reimburse the court, city, and county for actual costs of services rendered under these provisions.

This bill would repeal the authority to require that reimbursement.

(4) Existing law requires a court to order a defendant who is convicted of a crime in this state to pay full restitution to the victim and a separate restitution fine, as specified.

Existing law, in specified cases, including when the defendant has successfully completed probation, requires a court to dismiss the accusation, as described, thus releasing the person of any penalties and disabilities of conviction, except as otherwise provided. Existing law prohibits a petition for relief from being denied due to an unfulfilled order of restitution or restitution fine.

This bill would extend the prohibition against a petition being denied due to unpaid restitution to a person eligible for expungement based on successful participation in the California Conservation Camp program.

(5) Existing law establishes the Department of Corrections and Rehabilitation to, among other duties, administer the operations of numerous state prison facilities.

This bill would require the department to submit reports to the Legislature, as specified, assessing the facility needs of the department in order to assist the Legislature in decisions relating to prison closures.

(6) Existing law authorizes the Secretary of the Department of Corrections and Rehabilitation to prescribe and amend rules and regulations for the administration of prisons, and requires regulations, which are adopted by the Department of Corrections and Rehabilitation, that may impact the visitation of inmates to recognize and consider the value of inmate visitation as a means of increasing safety in prisons, maintaining family and community connections, and preparing inmates for successful release and rehabilitation. Existing regulations establish the framework for establishing a visiting process in prisons that is conducted in as accommodating a manner as possible, subject to the need to maintain order, the safety of persons, the security of institutions and facilities, and required prison activities and operations.

This bill would require the department to, by July 1, 2024, upon request by a visitor, scan certain documents into the Strategic Offender Management Systems (SOMS), including, among other documents, a birth certificate for a visiting minor, as specified. The bill would require the department to allow a visitor for an in-person visit or an approved family visit to bring certain items for the visit, including, among other things, items for infants and toddlers, as specified.

(7) Existing law, the Reproductive Rights Law Enforcement Act, requires the Attorney General to direct local law enforcement agencies, district attorneys, and elected city attorneys to provide to the Department of Justice, on an annual basis, specified information relating to anti-reproductive-rights crimes, as defined, and to produce an annual report for the Legislature beginning January 1, 2025.

This bill would instead require the Attorney General to collect the above-described information on a monthly basis and produce an annual report for the Legislature beginning July 1, 2025. By requiring local law enforcement agencies, district attorneys, and elected city attorneys to provide information on a more frequent basis, this bill would impose a state-mandated local program.

(8) Existing law requires the Attorney General to establish and maintain an online database known as the Prohibited Armed Persons File, also referred to as the Armed Prohibited Persons System (APPS), to cross-reference persons who have ownership or possession of a firearm and who, subsequent to the date of that ownership or possession of a firearm, fall within a class of persons who are prohibited from owning or possessing a firearm. Existing law requires the Department of Justice to report to the Legislature, no later than April 1 of each year, specified information relating to the APPS, including the number of individuals in the APPS and the degree to which the backlog in the APPS has been reduced or eliminated.

This bill would instead require the department to report to the Legislature no later than March 15 of each year.

(9) Under existing law, there is and continues to be a state prison known as the California State Prison at San Quentin.

This bill would rename the prison to San Quentin Rehabilitation Center and would make conforming changes.

Existing law authorizes the Director of General Services to use the progressive design-build procurement process for the construction of up to 3 capital outlay projects, as jointly determined by the Department of General Services and the Department of Finance, and prescribes that process. Existing law defines “progressive design-build” as a project delivery process in which both the design and construction of a project are procured from a single entity that is selected through a qualifications-based selection at the earliest feasible stage of the project. Existing law, pursuant to the process, after selection of a design-build entity, authorizes the Department of General Services to contract for design and preconstruction services sufficient to establish a guaranteed maximum price, as defined. Existing law authorizes the department, upon agreement on a guaranteed maximum price, to amend the contract in its sole discretion, as specified. Existing law requires specified information to be verified under penalty of perjury.

This bill would require the Department of Corrections and Rehabilitation to use the progressive design-build procurement process for the demolition of Building 38 and the design and construction of a new educational and vocational center at the San Quentin Rehabilitation Center, and would prescribe that process. The bill would require each design-build entity, as defined, to submit specified information in a statement of qualifications that is to be verified under penalty of perjury. By expanding the crime of perjury, the bill would impose a state-mandated local program.

The bill would prescribe the process for the department to determine which design-build entity offers the best value to the public for the design-build project, as defined. The bill would require the selected design-build entity to provide payment and performance bonds and errors and omissions insurance coverage, as specified. The bill would, pursuant to the process, authorize the department to contract for design and preconstruction services sufficient to establish a guaranteed maximum price, as defined. Upon agreement on a guaranteed maximum price, the bill would authorize the department to amend a contract, as specified. The bill would also authorize the department to solicit additional proposals if the department and the design-build entity are unable to reach an agreement.

Existing law requires a state agency to submit to the State Historic Preservation Officer for comment documentation for any project having the potential to affect historical resources listed in or potentially eligible for inclusion in the National Register of Historic Places or registered as or eligible for registration as a state historical landmark. Existing law prohibits a state agency from altering the original or significant historical features or fabric, or transfer, relocate, or demolish historical resources on the master

list without first giving notice and a summary of the proposed action to the officer.

This bill would exempt the San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center project and the San Quentin Rehabilitation Center, San Quentin: Improvement Projects from the requirements and prohibitions mentioned above.

The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA exempts from its requirements certain projects.

This bill would exempt the San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center project and the San Quentin Rehabilitation Center, San Quentin: Improvement Projects located on the grounds of the San Quentin Rehabilitation Center from compliance with the CEQA requirements.

(10) Existing law requires the judge of the juvenile court of a county to inspect any jail, juvenile hall, or special purpose juvenile hall that was used for the confinement of a minor in the preceding calendar year, as specified. Existing law requires the Board of State and Community Corrections to conduct a biennial inspection of each jail, juvenile hall, lockup, or special purpose juvenile hall used for the confinement, for more than 24 hours, of a minor. Existing law requires the board to notify the operator of a jail, juvenile hall, or special purpose juvenile hall of any observed noncompliance, as specified. Existing law additionally requires the board to conduct a biennial inspection of juvenile ranches, camps, forestry camps, and secure youth treatment facilities.

The bill would require that the biennial inspections of juvenile ranches, camps, forestry camps, and secure youth treatment facilities comply with the inspection provisions regarding jails, juvenile halls, or special purpose juvenile halls. The bill would replace the term “minor” with “juvenile,” as defined, and would make conforming changes.

(11) Existing law authorizes a court to order a ward who is 14 years of age or older to be committed to a secure youth treatment facility, operated by the county of commitment, for a period of confinement if the ward is adjudicated and found to be a ward based on the commitment of a specified serious offense committed when the juvenile was 14 years of age or older, that adjudication is the most recent offense for which the ward has been adjudicated, and the court has made a finding on the record that a less restrictive, alternative disposition for the ward is unsuitable. Existing law

requires the baseline term of confinement to be determined according to offense-based classifications, as specified. Existing law requires the court to hold a progress review hearing for the ward not less frequently than once every 6 months during the term of confinement, as specified, and authorizes the court to order a ward to be transferred from a secure youth treatment facility to a less restrictive program. Existing law authorizes a court to order a ward be returned to a secure youth treatment facility if, after placement in a less restrictive program, the court determines that the ward has materially failed to comply with court-ordered conditions of placement in the program.

This bill would prohibit a baseline term of confinement for youth transferred from the Division of Juvenile Justice and committed to a secure youth treatment facility from exceeding a youth's projected juvenile parole board date, as defined, and would require that youth receive credit against their secure youth treatment facility baseline term for all programs completed or substantially completed at the Division of Juvenile Justice, as specified. The bill would specify that the term of confinement during which a court is required to hold progress review hearing includes any term spent in a less restrictive program, pursuant to certain provisions. The bill would also specify that the determination of whether the term will be modified or whether a youth will be assigned to a less restrictive program is a judicial decision and not subject to stipulations of the parties. The bill would authorize a court, if a ward is already assigned to a less restrictive program, to order a reducing in the length of time that the ward is to remain in the less restrictive program before a probation discharge hearing. The bill would prohibit a person who is 25 years of age or older, or a person who was, prior to July 1, 2023, sentenced to state prison and was found to be a ward of the court and committed to the Division of Juvenile Justice, from being detained in a county juvenile facility, unless the court finds that such commitment or detention is in the best interest of that person and does not find that it would create a risk to the other youth in the juvenile facility. The bill would specify where a person 25 years of age or older, a person who was, prior to July 1, 2023, sentenced to state prison and was found to be a ward of the court and committed to the Division of Juvenile Justice, may be committed or detained.

(12) Existing law creates the Division of Juvenile Justice within the Department of Corrections and Rehabilitation to operate facilities to house specified juvenile offenders. Existing law requires the Division of Juvenile Justice to close on June 30, 2023, and provides for the transition of youth who are currently housed within a Division of Juvenile Justice facility to the care and custody of counties.

Existing federal law defines sight or sound contact as any physical, clear visual, or verbal contact that is not brief and inadvertent. Existing federal law prohibits juveniles awaiting trial or other legal process who are treated as adults for purposes of prosecution in criminal court and housed in a secure facility from having sight or sound contact with adult inmates unless the court makes certain findings, as specified.

This bill would authorize a juvenile to have sight or sound contact with other juveniles. The bill would prohibit an incarcerated adult, as defined, who is detained in a juvenile facility from having sight or sound contact with juveniles under 18 years of age. The bill would clarify that a juvenile who is still under the jurisdiction of the juvenile court and who participates in the Pine Grove Youth Conservation Camp shall be considered a juvenile as it relates to sight or sound contact if returned to a local juvenile facility.

To the extent that this bill would impose a higher level of service on local facilities, it would impose a state-mandated local program.

(13) This bill would appropriate \$531,000 from the General Fund to the Department of Justice to establish the Advisory Council on Improving Interactions between People with Intellectual and Development Disabilities and Law Enforcement, as specified.

(14) This bill would state that its provisions are severable.

(15) 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.

(16) 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. It is the intent of the Legislature in enacting Section 28 of this bill, which adds Section 208.55 to the Welfare and Institutions Code, to clarify the circumstances in which youth who are 18 years of age or older may have sight or sound contact with youth under 18 years of age when detained in juvenile halls, special purpose juvenile halls, ranches and camps, and secure youth treatment facilities.

SEC. 2. Section 7923.601 is added to the Government Code, to read:

7923.601. (a) This division does not require the disclosure in response to a request for records filed under the California Public Records Act, of peace officer personnel files and background investigation files gathered by law enforcement agencies pursuant to Section 1031 that are in the custody of the Commission on Peace Officer Standards and Training in connection with the commission's authority to verify eligibility for the issuance of certification and investigate grounds for decertification of a peace officer pursuant to Section 13510.8 of the Penal Code, including any and all investigative files and records relating to complaints of, and investigations of, police misconduct, and all other investigative files and materials.

(b) If the commission receives a request to disclose a public record that the commission is exempt from disclosing pursuant to subdivision (a), the commission shall forward the request to the agency that transmitted the record to the commission and shall notify the requestor of where the request was forwarded. That agency shall be responsible for complying with the request, subject to applicable disclosure laws.

(c) In the event that the requested public record is no longer in the possession of the agency that previously transmitted the record to the commission, the agency shall request copies of the record from the commission, which shall provide the record to the agency if it is in the possession of the commission. The agency shall then be responsible for complying with the request, subject to applicable disclosure laws.

(d) This section does not limit the obligation of another public agency to disclose records of police misconduct, or other public records, pursuant to Section 832.7 of the Penal Code or any other provision of law.

(e) This section does not limit the disclosure of records created by the commission during its own investigations or decisionmaking, which are otherwise subject to disclosure under the law.

(f) This section does not limit the disclosure of records pursuant to Section 13510.85 of the Penal Code.

(g) This section shall remain in effect only until January 1, 2027, and as of that date is repealed.

(h) It is the intent of the Legislature that upon repeal of this section, the commission shall comply with all applicable disclosure requirements, including any request for documents in the possession of the commission that were also in the possession of the commission during any time that this section was in effect.

SEC. 3. Section 832.7 of the Penal Code is amended to read:

832.7. (a) Except as provided in subdivision (b), the personnel records of peace officers and custodial officers and records maintained by a state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section does not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs those officers, conducted by a grand jury, a district attorney's office, the Attorney General's office, or the Commission on Peace Officer Standards and Training.

(b) (1) Notwithstanding subdivision (a), Section 7923.600 of the Government Code, or any other law, the following peace officer or custodial officer personnel records and records maintained by a state or local agency shall not be confidential and shall be made available for public inspection pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code):

(A) A record relating to the report, investigation, or findings of any of the following:

(i) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer.

(ii) An incident involving the use of force against a person by a peace officer or custodial officer that resulted in death or in great bodily injury.

(iii) A sustained finding involving a complaint that alleges unreasonable or excessive force.

(iv) A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.

(B) (i) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in sexual assault involving a member of the public.

(ii) As used in this subparagraph, “sexual assault” means the commission or attempted initiation of a sexual act with a member of the public by means of force, threat, coercion, extortion, offer of leniency or other official favor, or under the color of authority. For purposes of this definition, the propositioning for or commission of any sexual act while on duty is considered a sexual assault.

(iii) As used in this subparagraph, “member of the public” means any person not employed by the officer’s employing agency and includes any participant in a cadet, explorer, or other youth program affiliated with the agency.

(C) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency involving dishonesty by a peace officer or custodial officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another peace officer or custodial officer, including, but not limited to, any false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.

(D) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that a peace officer or custodial officer engaged in conduct including, but not limited to, verbal statements, writings, online posts, recordings, and gestures, involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

(E) Any record relating to an incident in which a sustained finding was made by any law enforcement agency or oversight agency that the peace officer made an unlawful arrest or conducted an unlawful search.

(2) Records that are subject to disclosure under clause (iii) or (iv) of subparagraph (A) of paragraph (1), or under subparagraph (D) or (E) of paragraph (1), relating to an incident that occurs before January 1, 2022, shall not be subject to the time limitations in paragraph (11) until January 1, 2023.

(3) Records that shall be released pursuant to this subdivision include all investigative reports; photographic, audio, and video evidence; transcripts or recordings of interviews; autopsy reports; all materials compiled and presented for review to the district attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, whether the officer's action was consistent with law and agency policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take; documents setting forth findings or recommended findings; and copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the Skelly or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action. Records that shall be released pursuant to this subdivision also include records relating to an incident specified in paragraph (1) in which the peace officer or custodial officer resigned before the law enforcement agency or oversight agency concluded its investigation into the alleged incident.

(4) A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure pursuant to this subdivision.

(5) If an investigation or incident involves multiple officers, information about allegations of misconduct by, or the analysis or disposition of an investigation of, an officer shall not be released pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1), unless it relates to a sustained finding regarding that officer that is itself subject to disclosure pursuant to this section. However, factual information about that action of an officer during an incident, or the statements of an officer about an incident, shall be released if they are relevant to a finding against another officer that is subject to release pursuant to subparagraph (B), (C), (D), or (E) of paragraph (1).

(6) An agency shall redact a record disclosed pursuant to this section only for any of the following purposes:

(A) To remove personal data or information, such as a home address, telephone number, or identities of family members, other than the names and work-related information of peace and custodial officers.

(B) To preserve the anonymity of whistleblowers, complainants, victims, and witnesses.

(C) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force by peace officers and custodial officers.

(D) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person.

(7) Notwithstanding paragraph (6), an agency may redact a record disclosed pursuant to this section, including personal identifying information, where, on the facts of the particular case, the public interest served by not

disclosing the information clearly outweighs the public interest served by disclosure of the information.

(8) An agency may withhold a record of an incident described in paragraph (1) that is the subject of an active criminal or administrative investigation, in accordance with any of the following:

(A) (i) During an active criminal investigation, disclosure may be delayed for up to 60 days from the date the misconduct or use of force occurred or until the district attorney determines whether to file criminal charges related to the misconduct or use of force, whichever occurs sooner. If an agency delays disclosure pursuant to this clause, the agency shall provide, in writing, the specific basis for the agency's determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. This writing shall include the estimated date for disclosure of the withheld information.

(ii) After 60 days from the misconduct or use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer who engaged in misconduct or used the force. If an agency delays disclosure pursuant to this clause, the agency shall, at 180-day intervals as necessary, provide, in writing, the specific basis for the agency's determination that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding. The writing shall include the estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner.

(iii) After 60 days from the misconduct or use of force, the agency may continue to delay the disclosure of records or information if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against someone other than the officer who engaged in the misconduct or used the force. If an agency delays disclosure under this clause, the agency shall, at 180-day intervals, provide, in writing, the specific basis why disclosure could reasonably be expected to interfere with a criminal enforcement proceeding, and shall provide an estimated date for the disclosure of the withheld information. Information withheld by the agency shall be disclosed when the specific basis for withholding is resolved, when the investigation or proceeding is no longer active, or by no later than 18 months after the date of the incident, whichever occurs sooner, unless extraordinary circumstances warrant continued delay due to the ongoing criminal investigation or proceeding. In that case, the agency must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest in prompt disclosure of records about misconduct or use of force by peace officers and custodial officers. The agency shall release all information subject to disclosure that does not cause substantial prejudice, including any documents that have otherwise become available.

(iv) In an action to compel disclosure brought pursuant to Section 7923.000 of the Government Code, an agency may justify delay by filing an application to seal the basis for withholding, in accordance with Rule 2.550 of the California Rules of Court, or any successor rule, if disclosure of the written basis itself would impact a privilege or compromise a pending investigation.

(B) If criminal charges are filed related to the incident in which misconduct occurred or force was used, the agency may delay the disclosure of records or information until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea pursuant to Section 1018.

(C) During an administrative investigation into an incident described in paragraph (1), the agency may delay the disclosure of records or information until the investigating agency determines whether the misconduct or use of force violated a law or agency policy, but no longer than 180 days after the date of the employing agency's discovery of the misconduct or use of force, or allegation of misconduct or use of force, by a person authorized to initiate an investigation.

(9) A record of a complaint, or the investigations, findings, or dispositions of that complaint, shall not be released pursuant to this section if the complaint is frivolous, as defined in Section 128.5 of the Code of Civil Procedure, or if the complaint is unfounded.

(10) The cost of copies of records subject to disclosure pursuant to this subdivision that are made available upon the payment of fees covering direct costs of duplication pursuant to subdivision (a) of Section 7922.530 of the Government Code shall not include the costs of searching for, editing, or redacting the records.

(11) Except to the extent temporary withholding for a longer period is permitted pursuant to paragraph (8), records subject to disclosure under this subdivision shall be provided at the earliest possible time and no later than 45 days from the date of a request for their disclosure.

(12) (A) For purposes of releasing records pursuant to this subdivision, the lawyer-client privilege does not prohibit the disclosure of either of the following:

(i) Factual information provided by the public entity to its attorney or factual information discovered in any investigation conducted by, or on behalf of, the public entity's attorney.

(ii) Billing records related to the work done by the attorney so long as the records do not relate to active and ongoing litigation and do not disclose information for the purpose of legal consultation between the public entity and its attorney.

(B) This paragraph does not prohibit the public entity from asserting that a record or information within the record is exempted or prohibited from disclosure pursuant to any other federal or state law.

(c) Notwithstanding subdivisions (a) and (b), a department or agency shall release to the complaining party a copy of the complaining party's own statements at the time the complaint is filed.

(d) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may disseminate data regarding the number, type, or disposition of complaints (sustained, not sustained, exonerated, or unfounded) made against its officers if that information is in a form which does not identify the individuals involved.

(e) Notwithstanding subdivisions (a) and (b), a department or agency that employs peace or custodial officers may release factual information concerning a disciplinary investigation if the officer who is the subject of the disciplinary investigation, or the officer's agent or representative, publicly makes a statement they know to be false concerning the investigation or the imposition of disciplinary action. Information may not be disclosed by the peace or custodial officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace or custodial officer or their agent or representative.

(f) (1) The department or agency shall provide written notification to the complaining party of the disposition of the complaint within 30 days of the disposition.

(2) The notification described in this subdivision is not conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States.

(g) This section does not affect the discovery or disclosure of information contained in a peace or custodial officer's personnel file pursuant to Section 1043 of the Evidence Code.

(h) This section does not supersede or affect the criminal discovery process outlined in Chapter 10 (commencing with Section 1054) of Title 6 of Part 2, or the admissibility of personnel records pursuant to subdivision (a), which codifies the court decision in *Pitchess v. Superior Court* (1974) 11 Cal.3d 531.

(i) Nothing in this chapter is intended to limit the public's right of access as provided for in *Long Beach Police Officers Association v. City of Long Beach* (2014) 59 Cal.4th 59.

SEC. 4. Section 851.93 of the Penal Code, as amended by Section 3 of Chapter 814 of the Statutes of 2022, is amended to read:

851.93. (a) (1) On a monthly basis, the Department of Justice shall review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository, shall identify persons with records of arrest that meet the criteria set forth in paragraph (2) and are eligible for arrest record relief.

(2) A person is eligible for relief pursuant to this section, if the arrest occurred on or after January 1, 1973, and meets any of the following conditions:

(A) The arrest was for a misdemeanor offense and the charge was dismissed.

(B) The arrest was for a misdemeanor offense, there is no indication that criminal proceedings have been initiated, at least one calendar year has elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges that arose, from that arrest.

(C) The arrest was for an offense that is punishable by imprisonment pursuant to paragraph (1) or (2) of subdivision (h) of Section 1170, there is no indication that criminal proceedings have been initiated, at least three calendar years have elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges arising, from that arrest.

(D) The person successfully completed any of the following, relating to that arrest:

(i) A prefilng diversion program, as defined in Section 851.87, administered by a prosecuting attorney in lieu of filing an accusatory pleading.

(ii) A drug diversion program administered by a superior court pursuant to Section 1000.5, or a deferred entry of judgment program pursuant to Section 1000 or 1000.8.

(iii) A pretrial diversion program, pursuant to Section 1000.4.

(iv) A diversion program, pursuant to Section 1001.9.

(v) A diversion program described in Chapter 2.8 (commencing with Section 1001.20), Chapter 2.8A (commencing with Section 1001.35), Chapter 2.81 (commencing with Section 1001.40), Chapter 2.9 (commencing with Section 1001.50), Chapter 2.9A (commencing with Section 1001.60), Chapter 2.9B (commencing with Section 1001.70), Chapter 2.9C (commencing with Section 1001.80), Chapter 2.9D (commencing with Section 1001.81), or Chapter 2.92 (commencing with Section 1001.85), of Title 6.

(b) (1) The department shall grant relief to a person identified pursuant to subdivision (a), without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records.

(2) The state summary criminal history information shall include, directly next to or below the entry or entries regarding the person's arrest record, a note stating "arrest relief granted," listing the date that the department granted relief, and this section. This note shall be included in all statewide criminal databases with a record of the arrest.

(3) Except as otherwise provided in subdivision (d), an arrest for which arrest relief has been granted is deemed not to have occurred, and a person who has been granted arrest relief is released from any penalties and disabilities resulting from the arrest, and may answer any question relating to that arrest accordingly.

(c) On a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that

jurisdiction and for which relief was granted pursuant to this section. Commencing on August 1, 2022, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in subdivision (d), the court shall not disclose information concerning an arrest that is granted relief pursuant to this section to any person or entity, in any format, except to the person whose arrest was granted relief or a criminal justice agency, as defined in Section 851.92.

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

(1) Arrest relief does not relieve a person of the obligation to disclose an arrest in response to a direct question contained in a questionnaire or application for employment as a peace officer, as defined in Section 830.

(2) Relief granted pursuant to this section has no effect on the ability of a criminal justice agency, as defined in Section 851.92, to access and use records that are granted relief to the same extent that would have been permitted for a criminal justice agency had relief not been granted.

(3) This section does not limit the ability of a district attorney to prosecute, within the applicable statute of limitations, an offense for which arrest relief has been granted pursuant to this section.

(4) Relief granted pursuant to this section does not affect a person's authorization to own, possess, or have in the person's custody or control a firearm, or the person's susceptibility to conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, if the arrest would otherwise affect this authorization or susceptibility.

(5) Relief granted pursuant to this section does not affect any prohibition from holding public office that would otherwise apply under law as a result of the arrest.

(6) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified court records received or evaluated pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or pursuant to any statutory or regulatory provisions that incorporate the criteria of those sections.

(e) This section does not limit petitions, motions, or orders for arrest record relief, as required or authorized by any other law, including, but not limited to, Sections 851.87, 851.90, 851.91, 1000.4, and 1001.9.

(f) The department shall annually publish statistics for each county regarding the total number of arrests granted relief pursuant to this section and the percentage of arrests for which the state summary criminal history information does not include a disposition, on the OpenJustice Web portal, as defined in Section 13010.

(g) This section shall be operative commencing July 1, 2022, subject to an appropriation in the annual Budget Act.

(h) This section shall remain in effect only until July 1, 2024, and as of that date is repealed.

SEC. 5. Section 851.93 of the Penal Code, as added by Section 4 of Chapter 814 of the Statutes of 2022, is amended to read:

851.93. (a) (1) On a monthly basis, the Department of Justice shall review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository, shall identify persons with records of arrest that meet the criteria set forth in paragraph (2) and are eligible for arrest record relief.

(2) A person is eligible for relief pursuant to this section, if the arrest occurred on or after January 1, 1973, and meets any of the following conditions:

(A) The arrest was for a misdemeanor offense and the charge was dismissed.

(B) The arrest was for a misdemeanor offense, there is no indication that criminal proceedings have been initiated, at least one calendar year has elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges that arose, from that arrest.

(C) (i) The arrest was for a felony offense not described in clause (ii), there is no indication that criminal proceedings have been initiated, at least three calendar years have elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges arising, from that arrest.

(ii) If the arrest was for an offense punishable by imprisonment in the state prison for eight years or more or by imprisonment pursuant to subdivision (h) of Section 1170 for eight years or more, there is no indication that criminal proceedings have been initiated, at least six years have elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges arising, from that arrest.

(D) The person successfully completed any of the following, relating to that arrest:

(i) A prefilming diversion program, as defined in subdivision (d) of Section 851.87, administered by a prosecuting attorney in lieu of filing an accusatory pleading.

(ii) A drug diversion program administered by a superior court pursuant to Section 1000.5, or a deferred entry of judgment program pursuant to Section 1000 or 1000.8.

(iii) A pretrial diversion program, pursuant to Section 1000.4.

(iv) A diversion program, pursuant to Section 1001.9.

(v) A diversion program described in Chapter 2.8 (commencing with Section 1001.20), Chapter 2.8A (commencing with Section 1001.35), Chapter 2.81 (commencing with Section 1001.40), Chapter 2.9 (commencing with Section 1001.50), Chapter 2.9A (commencing with Section 1001.60), Chapter 2.9B (commencing with Section 1001.70), Chapter 2.9C (commencing with Section 1001.80), Chapter 2.9D (commencing with Section 1001.81), or Chapter 2.92 (commencing with Section 1001.85), of Title 6.

(b) (1) The department shall grant relief to a person identified pursuant to subdivision (a), without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records.

(2) The state summary criminal history information shall include, directly next to or below the entry or entries regarding the person's arrest record, a note stating "arrest relief granted," listing the date that the department granted relief, and this section. This note shall be included in all statewide criminal databases with a record of the arrest.

(3) Except as otherwise provided in subdivision (d), an arrest for which arrest relief has been granted is deemed not to have occurred, and a person who has been granted arrest relief is released from any penalties and disabilities resulting from the arrest, and may answer any question relating to that arrest accordingly.

(c) On a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Commencing on August 1, 2022, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in subdivision (d), the court shall not disclose information concerning an arrest that is granted relief pursuant to this section to any person or entity, in any format, except to the person whose arrest was granted relief or a criminal justice agency, as defined in Section 851.92.

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

(1) Arrest relief does not relieve a person of the obligation to disclose an arrest in response to a direct question contained in a questionnaire or application for employment as a peace officer, as defined in Section 830.

(2) Relief granted pursuant to this section has no effect on the ability of a criminal justice agency, as defined in Section 851.92, to access and use records that are granted relief to the same extent that would have been permitted for a criminal justice agency had relief not been granted.

(3) This section does not limit the ability of a district attorney to prosecute, within the applicable statute of limitations, an offense for which arrest relief has been granted pursuant to this section.

(4) Relief granted pursuant to this section does not affect a person's authorization to own, possess, or have in the person's custody or control a firearm, or the person's susceptibility to conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, if the arrest would otherwise affect this authorization or susceptibility.

(5) Relief granted pursuant to this section does not affect any prohibition from holding public office that would otherwise apply under law as a result of the arrest.

(6) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified court records received or evaluated pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or pursuant to any statutory or regulatory provisions that incorporate the criteria of those sections.

(e) This section does not limit petitions, motions, or orders for arrest record relief, as required or authorized by any other law, including, but not limited to, Sections 851.87, 851.90, 851.91, 1000.4, and 1001.9.

(f) The department shall annually publish on the OpenJustice Web portal, as described under Section 13010, statistics for each county regarding the total number of arrests granted relief pursuant to this section and the percentage of arrests for which the state summary criminal history information does not include a disposition.

(g) This section shall be operative commencing July 1, 2024, subject to an appropriation in the annual Budget Act.

SEC. 6. Section 1203.4 of the Penal Code is amended to read:

1203.4. (a) (1) When a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interest of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if they are not then serving a sentence for an offense, on probation for an offense, or charged with the commission of an offense, be permitted by the court to withdraw their plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if they have been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, the defendant shall thereafter be released from all penalties and disabilities resulting from the offense of which they have been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in their probation papers, of this right and privilege and the right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing. However, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve them of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission.

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

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

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

(5) This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to a misdemeanor that is within the provisions of Section 42002.1 of the Vehicle Code, to a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 287 or of former Section 288a, Section 288.5, subdivision (j) of Section 289, Section 311.1, 311.2, 311.3, or 311.11, or a felony conviction pursuant to subdivision (d) of Section 261.5, or to an infraction.

(c) (1) Except as provided in paragraph (2), subdivision (a) does not apply to a person who receives a notice to appear or is otherwise charged with a violation of an offense described in subdivisions (a) to (e), inclusive, of Section 12810 of the Vehicle Code.

(2) If a defendant who was convicted of a violation listed in paragraph (1) petitions the court, the court in its discretion and in the interest of justice, may order the relief provided pursuant to subdivision (a) to that defendant.

(3) (A) A petition for relief under this section shall not be denied due to an unfulfilled order of restitution or restitution fine.

(B) An unfulfilled order of restitution or a restitution fine shall not be grounds for finding that a defendant did not fulfil the condition of probation for the entire period of probation.

(C) When the court considers a petition for relief under this section, in its discretion and in the interest of justice, an unpaid order of restitution or restitution fine shall not be grounds for denial of the petition for relief.

(d) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

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

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

(f) Notwithstanding the above provisions or any other law, the Governor shall have the right to pardon a person convicted of a violation of subdivision (c) of Section 286, Section 288, subdivision (c) of Section 287 or of former Section 288a, Section 288.5, or subdivision (j) of Section 289, if there are extraordinary circumstances.

SEC. 7. Section 1203.4b of the Penal Code is amended to read:

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

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

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

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

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

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

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

(4) All convictions for which the defendant is serving a sentence at the time the defendant successfully participates in a program as specified in subdivision (a) are subject to relief pursuant to this section.

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

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

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

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

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

(4) (A) A petition for relief under this section shall not be denied due to an unfulfilled order of restitution or restitution fine.

(B) An unfulfilled order of restitution or restitution fine shall not be grounds for finding that a defendant did not successfully participate in the California Conservation Camp program as an incarcerated individual hand crew member or at an institutional firehouse, or that the defendant did not successfully participate as a member of a county incarcerated individual hand crew.

(C) When the court considers a petition for relief under this section, in its discretion and in the interest of justice, an unpaid order of restitution or restitution fine shall not be grounds for denial of the petition for relief.

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

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

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

(3) Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in the person's custody

or control any firearm or prevent their conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6.

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

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

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

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

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

SEC. 8. Section 1203.41 of the Penal Code is amended to read:

1203.41. (a) If a defendant is convicted of a felony, the court, in its discretion and in the interest of justice, may order the following relief, subject to the conditions of subdivision (b):

(1) The court may permit the defendant to withdraw their plea of guilty or plea of nolo contendere and enter a plea of not guilty, or, if the defendant has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty, and, in either case, the court shall dismiss the accusations or information against the defendant and the defendant shall be released from all penalties and disabilities resulting from the offense of which they have been convicted, except as provided in Section 13555 of the Vehicle Code.

(2) The relief available under this section may be granted only after the lapse of one year following the defendant's completion of the sentence, if the sentence was imposed pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, or after the lapse of two years following the defendant's completion of the sentence, if the sentence was imposed pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section 1170 or if the defendant was sentenced to the state prison.

(3) The relief available under this section may be granted only if the defendant is not on parole or under supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170, and is not serving a sentence for, on probation for, or charged with the commission of, an offense.

(4) The defendant shall be informed, either orally or in writing, of the provisions of this section and of their right, if any, to petition for a certificate of rehabilitation and pardon at the time of sentencing.

(5) The defendant may make the application and change of plea in person or by attorney, or by a probation officer authorized in writing.

(6) If the defendant seeks relief under this section for a felony that resulted in a sentence to the state prison, the relief available under this section may only be granted if that felony did not result in a requirement to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.

(b) Relief granted pursuant to subdivision (a) is subject to all of the following conditions:

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

(2) The order shall state, and the defendant shall be informed, that the order does not relieve them of the obligation to disclose the conviction in response to a direct question contained in a questionnaire or application for public office, for licensure by a state or local agency or by a federally recognized tribe, for enrollment as a provider of in-home supportive services and waiver personal care services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code or pursuant to Section 14132.95, 14132.952, 14132.956, or 14132.97 of the Welfare and Institutions Code, or for contracting with the California State Lottery Commission.

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

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

(c) This section applies to any conviction specified in subdivision (a) that occurred before, on, or after January 1, 2021.

(d) When the court considers a petition for relief under this section, in its discretion and in the interest of justice, an unpaid order of restitution or restitution fine shall not be grounds for denial of the petition for relief.

(e) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

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

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

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

(h) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified court records received or evaluated pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or pursuant to any statutory or regulatory provisions that incorporate the criteria of those sections. Relief granted pursuant to this section does not make eligible a person who is otherwise ineligible under state or federal law or regulation to provide, or receive payment for providing, in-home supportive services and waiver personal care services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, or pursuant to Section 14132.95, 14132.952, 14132.956, or 14132.97 of the Welfare and Institutions Code.

SEC. 9. Section 1203.42 of the Penal Code is amended to read:

1203.42. (a) If a defendant was sentenced prior to the implementation of the 2011 Realignment Legislation for a crime for which the defendant would otherwise have been eligible for sentencing pursuant to subdivision (h) of Section 1170, the court, in its discretion and in the interest of justice, may order the following relief, subject to the conditions of subdivision (b):

(1) The court may permit the defendant to withdraw their plea of guilty or plea of nolo contendere and enter a plea of not guilty, or, if the defendant has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty, and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and the defendant shall be released from all penalties and disabilities resulting from the offense of which they have been convicted, except as provided in Section 13555 of the Vehicle Code.

(2) The relief available under this section may be granted only after the lapse of two years following the defendant's completion of the sentence.

(3) The relief available under this section may be granted only if the defendant is not under supervised release, and is not serving a sentence for, on probation for, or charged with the commission of, an offense.

(4) The defendant may make the application and change of plea in person or by attorney, or by a probation officer authorized in writing.

(b) Relief granted pursuant to subdivision (a) is subject to the following conditions:

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

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

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

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

(c) When the court considers a petition for relief under this section, in its discretion and in the interest of justice, an unpaid order of restitution or restitution fine shall not be grounds for denial of the petition for relief.

(d) (1) Relief shall not be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

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

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

SEC. 10. Section 1203.425 of the Penal Code, as amended by Section 2 of Chapter 842 of the Statutes of 2022, is amended to read:

1203.425. (a) (1) (A) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, on a monthly basis, the Department of Justice shall review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository and the Supervised Release File, shall identify persons with convictions that meet the criteria set forth in subparagraph (B) and are eligible for automatic conviction record relief.

(B) A person is eligible for automatic conviction relief pursuant to this section if they meet all of the following conditions:

(i) The person is not required to register pursuant to the Sex Offender Registration Act.

(ii) The person does not have an active record for local, state, or federal supervision in the Supervised Release File.

(iii) Based upon the information available in the department's record, including disposition dates and sentencing terms, it does not appear that the person is currently serving a sentence for an offense and there is no indication of pending criminal charges.

(iv) Except as otherwise provided in subclause (III) of clause (v), there is no indication that the conviction resulted in a sentence of incarceration in the state prison.

(v) The conviction occurred on or after January 1, 1973, and meets either of the following criteria:

(I) The defendant was sentenced to probation and, based upon the disposition date and the term of probation specified in the department's records, appears to have completed their term of probation without revocation.

(II) The defendant was convicted of an infraction or misdemeanor, was not granted probation, and, based upon the disposition date and the term specified in the department's records, the defendant appears to have completed their sentence, and at least one calendar year has elapsed since the date of judgment.

(2) (A) Except as specified in subdivision (b), the department shall grant relief, including dismissal of a conviction, to a person identified pursuant to paragraph (1) without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records.

(B) The state summary criminal history information shall include, directly next to or below the entry or entries regarding the person's criminal record, a note stating "relief granted," listing the date that the department granted relief and this section. This note shall be included in all statewide criminal databases with a record of the conviction.

(C) Except as otherwise provided in paragraph (4) and in Section 13555 of the Vehicle Code, a person granted conviction relief pursuant to this section shall be released from all penalties and disabilities resulting from the offense of which the person has been convicted.

(3) (A) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, on a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Commencing on January 1, 2023, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in paragraph (4), the court shall not disclose information concerning a conviction granted relief pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency, as defined in Section 851.92.

(B) If probation is transferred pursuant to Section 1203.9, the department shall electronically submit a notice as provided in subparagraph (A) to both the transferring court and any subsequent receiving court. The electronic notice shall be in a mutually agreed upon format.

(C) If a receiving court reduces a felony to a misdemeanor pursuant to subdivision (b) of Section 17, or dismisses a conviction pursuant to law, including, but not limited to, Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, or 1203.49, it shall furnish a disposition report to the department with the original case number and CII number from the transferring court. The department shall electronically submit a notice to the superior court

that sentenced the defendant. If probation is transferred multiple times, the department shall electronically submit a notice to all other involved courts. The electronic notice shall be in a mutually agreed upon format.

(D) If a court receives notification from the department pursuant to subparagraph (B), the court shall update its records to reflect the reduction or dismissal. If a court receives notification that a case was dismissed pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, the court shall update its records to reflect the dismissal and shall not disclose information concerning a conviction granted relief to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency, as defined in Section 851.92.

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

(A) Relief granted pursuant to this section does not relieve a person of the obligation to disclose a criminal conviction in response to a direct question contained in a questionnaire or application for employment as a peace officer, as defined in Section 830.

(B) Relief granted pursuant to this section does not relieve a person of the obligation to disclose the conviction in response to a direct question contained in a questionnaire or application for public office, for enrollment as a provider of in-home supportive services and waiver personal care services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code or pursuant to Section 14132.95, 14132.952, 14132.956, or 14132.97 of the Welfare and Institutions Code, or for contracting with the California State Lottery Commission.

(C) Relief granted pursuant to this section has no effect on the ability of a criminal justice agency, as defined in Section 851.92, to access and use records that are granted relief to the same extent that would have been permitted for a criminal justice agency had relief not been granted.

(D) Relief granted pursuant to this section does not limit the jurisdiction of the court over a subsequently filed motion to amend the record, petition or motion for postconviction relief, or collateral attack on a conviction for which relief has been granted pursuant to this section.

(E) Relief granted pursuant to this section does not affect a person's authorization to own, possess, or have in the person's custody or control a firearm, or the person's susceptibility to conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, if the criminal conviction would otherwise affect this authorization or susceptibility.

(F) Relief granted pursuant to this section does not affect a prohibition from holding public office that would otherwise apply under law as a result of the criminal conviction.

(G) Relief granted pursuant to this section does not release a person from the terms and conditions of any unexpired criminal protective order that has been issued by the court pursuant to paragraph (1) of subdivision (i) of Section 136.2, subdivision (j) of Section 273.5, subdivision (l) of Section

368, or subdivision (k) of Section 646.9. These protective orders shall remain in full effect until expiration or until any further order by the court modifying or terminating the order, despite the dismissal of the underlying conviction.

(H) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified court records received or evaluated pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or pursuant to any statutory or regulatory provisions that incorporate the criteria of those sections.

(I) Relief granted pursuant to this section does not make eligible a person who is otherwise ineligible under state or federal law or regulation to provide, or receive payment for providing, in-home supportive services and waiver personal care services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, or pursuant to Section 14132.95, 14132.952, 14132.956, or 14132.97 of the Welfare and Institutions Code.

(J) In a subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the relief had not been granted.

(K) (i) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified court records received or evaluated pursuant to Article 1 (commencing with Section 44000) of Chapter 1, Article 3 (commencing with Section 44240) and Article 8 (commencing with Section 44330) of Chapter 2, Article 1 (commencing with Section 44420) of Chapter 3, Article 3 (commencing with Section 44930) of Chapter 4, and Article 1 (commencing with Section 45100) and Article 6 (commencing with Section 45240) of Chapter 5, of Part 25 of Division 3 of Title 2 of the Education Code, or pursuant to any statutory or regulatory provisions that relate to, incorporate, expand upon, or interpret the authority of those provisions.

(ii) Notwithstanding clause (i) or any other law, information relating to a conviction for a controlled substance offense listed in Section 11350 or 11377, or former Section 11500 or 11500.5, of the Health and Safety Code that is more than five years old, for which relief is granted pursuant to this section, shall not be disclosed.

(5) This section shall not limit petitions, motions, or orders for relief in a criminal case, as required or authorized by any other law, including, but not limited to, Sections 1203.4 and 1204.4a.

(6) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, the department shall annually publish statistics for each county regarding the total number of convictions granted relief pursuant to this section and the total number of convictions prohibited from automatic relief pursuant to subdivision (b), on the OpenJustice Web portal, as defined in Section 13010.

(b) (1) The prosecuting attorney or probation department may, no later than 90 calendar days before the date of a person's eligibility for relief pursuant to this section, file a petition to prohibit the department from

granting automatic relief pursuant to this section, based on a showing that granting that relief would pose a substantial threat to the public safety. If probation was transferred pursuant to Section 1203.9, the prosecuting attorney or probation department in either the receiving county or the transferring county shall file the petition in the county of current jurisdiction.

(2) The court shall give notice to the defendant and conduct a hearing on the petition within 45 days after the petition is filed.

(3) At a hearing on the petition pursuant to this subdivision, the defendant, the probation department, the prosecuting attorney, and the arresting agency, through the prosecuting attorney, may present evidence to the court. Notwithstanding Sections 1538.5 and 1539, the hearing may be heard and determined upon declarations, affidavits, police investigative reports, copies of state summary criminal history information and local summary criminal history information, or any other evidence submitted by the parties that is material, reliable, and relevant.

(4) The prosecutor or probation department has the initial burden of proof to show that granting conviction relief would pose a substantial threat to the public safety. In determining whether granting relief would pose a substantial threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:

(A) Declarations or evidence regarding the offense for which a grant of relief is being contested.

(B) The defendant's record of arrests and convictions.

(5) If the court finds that the prosecutor or probation department has satisfied the burden of proof, the burden shifts to the defendant to show that the hardship of not obtaining relief outweighs the threat to the public safety of providing relief. In determining whether the defendant's hardship outweighs the threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:

(A) The hardship to the defendant that has been caused by the conviction and that would be caused if relief is not granted.

(B) Declarations or evidence regarding the defendant's good character.

(6) If the court grants a petition pursuant to this subdivision, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief pursuant to this section was denied, and the department shall not grant relief pursuant to this section. If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice to the transferring court, and, if probation was transferred multiple times, to all other involved courts.

(7) A person denied relief pursuant to this section may continue to be eligible for relief pursuant to Section 1203.4 or 1203.4a. If the court subsequently grants relief pursuant to one of those sections, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief was granted pursuant to the applicable section, and the department shall grant relief pursuant to that section. If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice that relief was granted pursuant to the applicable section to

the transferring court and, if probation was transferred multiple times, to all other involved courts.

(c) At the time of sentencing, the court shall advise a defendant, either orally or in writing, of the provisions of this section and of the defendant's right, if any, to petition for a certificate of rehabilitation and pardon.

(d) This section shall become inoperative on July 1, 2024, and, as of January 1, 2025, is repealed.

SEC. 11. Section 1203.425 of the Penal Code, as amended by Section 3 of Chapter 842 of the Statutes of 2022, is amended to read:

1203.425. (a) (1) (A) Commencing July 1, 2024, and subject to an appropriation in the annual Budget Act, on a monthly basis, the Department of Justice shall review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository and the Supervised Release File, shall identify persons with convictions that meet the criteria set forth in subparagraph (B) and are eligible for automatic conviction record relief.

(B) A person is eligible for automatic conviction relief pursuant to this section if they meet all of the following conditions:

(i) The person is not required to register pursuant to the Sex Offender Registration Act.

(ii) The person does not have an active record for local, state, or federal supervision in the Supervised Release File.

(iii) Based upon the information available in the department's record, including disposition dates and sentencing terms, it does not appear that the person is currently serving a sentence for an offense and there is no indication of pending criminal charges.

(iv) The conviction meets either of the following criteria:

(I) The conviction occurred on or after January 1, 1973, and meets either of the following criteria:

(ia) The defendant was sentenced to probation and, based upon the disposition date and the term of probation specified in the department's records, appears to have completed their term of probation without revocation.

(ib) The defendant was convicted of an infraction or misdemeanor, was not granted probation, and, based upon the disposition date and the term specified in the department's records, the defendant appears to have completed their sentence, and at least one calendar year has elapsed since the date of judgment.

(II) The conviction occurred on or after January 1, 2005, the defendant was convicted of a felony other than one for which the defendant completed probation without revocation, and based upon the disposition date and the sentence specified in the department's records, appears to have completed all terms of incarceration, probation, mandatory supervision, postrelease community supervision, and parole, and a period of four years has elapsed since the date on which the defendant completed probation or supervision for that conviction and during which the defendant was not convicted of a new felony offense. This subclause does not apply to a conviction of a

serious felony defined in subdivision (c) of Section 1192.7, a violent felony as defined in Section 667.5, or a felony offense requiring registration pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1.

(2) (A) Except as specified in subdivision (b), the department shall grant relief, including dismissal of a conviction, to a person identified pursuant to paragraph (1) without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records.

(B) The state summary criminal history information shall include, directly next to or below the entry or entries regarding the person's criminal record, a note stating "relief granted," listing the date that the department granted relief and this section. This note shall be included in all statewide criminal databases with a record of the conviction.

(C) Except as otherwise provided in paragraph (4) and in Section 13555 of the Vehicle Code, a person granted conviction relief pursuant to this section shall be released from all penalties and disabilities resulting from the offense of which the person has been convicted.

(3) (A) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, on a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Commencing on January 1, 2023, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in paragraph (4), the court shall not disclose information concerning a conviction granted relief pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency, as defined in Section 851.92.

(B) If probation is transferred pursuant to Section 1203.9, the department shall electronically submit a notice as provided in subparagraph (A) to both the transferring court and any subsequent receiving court. The electronic notice shall be in a mutually agreed upon format.

(C) If a receiving court reduces a felony to a misdemeanor pursuant to subdivision (b) of Section 17, or dismisses a conviction pursuant to law, including, but not limited to, Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.43, or 1203.49, it shall furnish a disposition report to the department with the original case number and CII number from the transferring court. The department shall electronically submit a notice to the superior court that sentenced the defendant. If probation is transferred multiple times, the department shall electronically submit a notice to all other involved courts. The electronic notice shall be in a mutually agreed upon format.

(D) If a court receives notification from the department pursuant to subparagraph (B), the court shall update its records to reflect the reduction or dismissal. If a court receives notification that a case was dismissed pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42,

the court shall update its records to reflect the dismissal and shall not disclose information concerning a conviction granted relief to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency, as defined in Section 851.92.

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

(A) Relief granted pursuant to this section does not relieve a person of the obligation to disclose a criminal conviction in response to a direct question contained in a questionnaire or application for employment as a peace officer, as defined in Section 830.

(B) Relief granted pursuant to this section does not relieve a person of the obligation to disclose the conviction in response to a direct question contained in a questionnaire or application for public office, for enrollment as a provider of in-home supportive services and waiver personal care services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code or pursuant to Section 14132.95, 14132.952, 14132.956, or 14132.97 of the Welfare and Institutions Code, or for contracting with the California State Lottery Commission.

(C) Relief granted pursuant to this section has no effect on the ability of a criminal justice agency, as defined in Section 851.92, to access and use records that are granted relief to the same extent that would have been permitted for a criminal justice agency had relief not been granted.

(D) Relief granted pursuant to this section does not limit the jurisdiction of the court over a subsequently filed motion to amend the record, petition or motion for postconviction relief, or collateral attack on a conviction for which relief has been granted pursuant to this section.

(E) Relief granted pursuant to this section does not affect a person's authorization to own, possess, or have in the person's custody or control a firearm, or the person's susceptibility to conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, if the criminal conviction would otherwise affect this authorization or susceptibility.

(F) Relief granted pursuant to this section does not affect a prohibition from holding public office that would otherwise apply under law as a result of the criminal conviction.

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

(H) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified court records received or evaluated pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and

Safety Code, or pursuant to any statutory or regulatory provisions that incorporate the criteria of those sections.

(I) Relief granted pursuant to this section does not make eligible a person who is otherwise ineligible under state or federal law or regulation to provide, or receive payment for providing, in-home supportive services and waiver personal care services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, or pursuant to Section 14132.95, 14132.952, 14132.956, or 14132.97 of the Welfare and Institutions Code.

(J) In a subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the relief had not been granted.

(K) (i) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified court records received or evaluated pursuant to Article 1 (commencing with Section 44000) of Chapter 1, Article 3 (commencing with Section 44240) and Article 8 (commencing with Section 44330) of Chapter 2, Article 1 (commencing with Section 44420) of Chapter 3, Article 3 (commencing with Section 44930) of Chapter 4, Article 1 (commencing with Section 45100) and Article 6 (commencing with Section 45240) of Chapter 5, of Part 25 of Division 3 of Title 2 of the Education Code, or pursuant to any statutory or regulatory provisions that relate to, incorporate, expand upon or interpret the authority of those provisions.

(ii) Notwithstanding clause (i) or any other law, information for a conviction for a controlled substance offense listed in Section 11350 or 11377, or former Section 11500 or 11500.5, of the Health and Safety Code that is more than five years old, for which relief is granted pursuant to this section, shall not be disclosed.

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

(5) This section shall not limit petitions, motions, or orders for relief in a criminal case, as required or authorized by any other law, including, but not limited to, Sections 1016.5, 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, 1203.49, and 1473.7. This section shall not limit petitions for a certificate of rehabilitation or pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3.

(6) Commencing July 1, 2022, and subject to an appropriation in the annual Budget Act, the department shall annually publish statistics for each county regarding the total number of convictions granted relief pursuant to this section and the total number of convictions prohibited from automatic

relief pursuant to subdivision (b), on the OpenJustice Web portal, as defined in Section 13010.

(b) (1) The prosecuting attorney or probation department may, no later than 90 calendar days before the date of a person's eligibility for relief pursuant to this section, file a petition to prohibit the department from granting automatic relief pursuant to this section, based on a showing that granting that relief would pose a substantial threat to the public safety. If probation was transferred pursuant to Section 1203.9, the prosecuting attorney or probation department in either the receiving county or the transferring county shall file the petition in the county of current jurisdiction.

(2) The court shall give notice to the defendant and conduct a hearing on the petition within 45 days after the petition is filed.

(3) At a hearing on the petition pursuant to this subdivision, the defendant, the probation department, the prosecuting attorney, and the arresting agency, through the prosecuting attorney, may present evidence to the court. Notwithstanding Sections 1538.5 and 1539, the hearing may be heard and determined upon declarations, affidavits, police investigative reports, copies of state summary criminal history information and local summary criminal history information, or any other evidence submitted by the parties that is material, reliable, and relevant.

(4) The prosecutor or probation department has the initial burden of proof to show that granting conviction relief would pose a substantial threat to the public safety. In determining whether granting relief would pose a substantial threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:

(A) Declarations or evidence regarding the offense for which a grant of relief is being contested.

(B) The defendant's record of arrests and convictions.

(5) If the court finds that the prosecutor or probation department has satisfied the burden of proof, the burden shifts to the defendant to show that the hardship of not obtaining relief outweighs the threat to the public safety of providing relief. In determining whether the defendant's hardship outweighs the threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:

(A) The hardship to the defendant that has been caused by the conviction and that would be caused if relief is not granted.

(B) Declarations or evidence regarding the defendant's good character.

(6) If the court grants a petition pursuant to this subdivision, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief pursuant to this section was denied, and the department shall not grant relief pursuant to this section. If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice to the transferring court, and, if probation was transferred multiple times, to all other involved courts.

(7) A person denied relief pursuant to this section may continue to be eligible for relief pursuant to law, including, but not limited to, Section 1203.4, 1203.4a, 1203.4b, or 1203.41. If the court subsequently grants relief

pursuant to one of those sections, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief was granted pursuant to the applicable section, and the department shall grant relief pursuant to that section. If probation was transferred pursuant to Section 1203.9, the department shall electronically submit a notice that relief was granted pursuant to the applicable section to the transferring court and, if probation was transferred multiple times, to all other involved courts.

(c) At the time of sentencing, the court shall advise a defendant, either orally or in writing, of the provisions of this section and of the defendant's right, if any, to petition for a certificate of rehabilitation and pardon.

(d) This section shall become operative on July 1, 2024.

SEC. 12. Section 1203.426 of the Penal Code is repealed.

SEC. 13. Section 1203.45 of the Penal Code is amended to read:

1203.45. (a) When a person was under 18 years of age at the time of commission of a misdemeanor and is eligible for, or has previously received, the relief provided by Section 1203.4 or 1203.4a, that person, in a proceeding under Section 1203.4 or 1203.4a, or a separate proceeding, may petition the court for an order sealing the record of conviction and other official records in the case, including records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether the defendant was acquitted or charges were dismissed. If the court finds that the person was under 18 years of age at the time of the commission of the misdemeanor, and is eligible for relief under Section 1203.4 or 1203.4a or has previously received that relief, it may issue its order granting the relief prayed for. Thereafter the conviction, arrest, or other proceeding shall be deemed not to have occurred, and the petitioner may answer accordingly any question relating to their occurrence.

(b) This section applies to convictions that occurred before, as well as those that occur after, the effective date of this section.

(c) This section shall not apply to offenses for which registration is required under Section 290, to violations of Division 10 (commencing with Section 11000) of the Health and Safety Code, or to misdemeanor violations of the Vehicle Code relating to operation of a vehicle or of a local ordinance relating to operation, standing, stopping, or parking of a motor vehicle.

(d) This section does not apply to a person convicted of more than one offense, whether the second or additional convictions occurred in the same action in which the conviction as to which relief is sought occurred or in another action, except in the following cases:

(1) One of the offenses includes the other or others.

(2) The other conviction or convictions were for the following:

(A) Misdemeanor violations of Chapters 1 (commencing with Section 21000) to 9 (commencing with Section 22500), inclusive, Chapter 12 (commencing with Section 23100), or Chapter 13 (commencing with Section 23250) of Division 11 of the Vehicle Code, other than Section 23103, 23104, 23105, 23152, 23153, or 23220.

(B) Violation of a local ordinance relating to the operation, stopping, standing, or parking of a motor vehicle.

(3) The other conviction or convictions consisted of any combination of paragraphs (1) and (2).

(e) This section shall apply in a case in which a person was under 21 years of age at the time of the commission of an offense as to which this section is made applicable if that offense was committed prior to March 7, 1973.

(f) (1) A petition for relief under this section shall not be denied due to an unfulfilled order of restitution or restitution fine.

(2) An unfulfilled order of restitution or a restitution fine shall not be grounds for finding that a defendant did not fulfil the conditions of probation for the entire period of probation.

(3) When the court considers a petition for relief under this section, in its discretion and in the interest of justice, an unpaid order of restitution or restitution fine shall not be grounds for denial of the petition for relief.

(g) In an action or proceeding based upon defamation, a court, upon a showing of good cause, may order the records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

SEC. 14. The heading of Article 2 (commencing with Section 2020) of Chapter 1 of Title 1 of Part 3 of the Penal Code is amended to read:

Article 2. San Quentin Rehabilitation Center

SEC. 15. Section 2020 of the Penal Code is amended to read:

2020. There is and shall continue to be a state prison known as the San Quentin Rehabilitation Center. Any reference to the California State Prison at San Quentin shall be a reference to the San Quentin Rehabilitation Center.

SEC. 16. Section 2021 of the Penal Code is amended to read:

2021. The San Quentin Rehabilitation Center shall be located at San Quentin in the County of Marin.

SEC. 17. Section 2022 of the Penal Code is amended to read:

2022. The primary purpose of the San Quentin Rehabilitation Center shall be to provide humane confinement, rehabilitation and education programming, restorative justice, industrial and other training, treatment, and care to persons confined therein.

SEC. 18. Section 5002 of the Penal Code is amended to read:

5002. (a) The department shall succeed to and is hereby vested with all of the powers and duties exercised and performed by the following departments, boards, bureaus, commissions, and officers when such powers and duties are not otherwise vested by law:

- (1) The Department of Penology.
- (2) The State Board of Prison Directors.
- (3) The Bureau of Paroles.

- (4) The warden and the clerk of the San Quentin Rehabilitation Center.
- (5) The warden and the clerk of the California State Prison at Folsom.
- (6) The warden of and the clerk of the California Institution for Men.
- (7) The California Crime Commission.

(b) Whenever any designation of any of the departments, boards, bureaus, commissions, or officers mentioned in subdivision (a) is contained in any provision of law and this designation is expressly made to refer to the Department of Corrections and Rehabilitation, the Board of State and Community Corrections, or the Board of Parole Hearings, then the Department of Corrections and Rehabilitation, the Board of State and Community Corrections, or the Board of Parole Hearings, to whichever one the designation is made to refer, shall exercise the power or perform the duty exercised or performed by the particular departments, boards, bureaus, or officers mentioned in subdivision (a).

(c) The powers and duties of the State Board of Prison Directors and of the clerks of the state prisons and the California Institution for Men are transferred to and shall be exercised and performed by the Department of Corrections and Rehabilitation, except as may be otherwise expressly provided by law.

(d) The powers and duties of wardens of the state prisons and the California Institution for Men, presently or hereafter, expressly vested by law in them shall be exercised by them but such exercise shall be subject to the supervision and control of the Secretary of the Department of Corrections and Rehabilitation. All powers and duties not expressly vested in the wardens are transferred to and shall be exercised and performed by the Department of Corrections and Rehabilitation. When the designation of warden is expressly made to refer to the Department of Corrections and Rehabilitation, the department shall exercise the power and perform the duty exercised or performed by the warden.

(e) The Board of Parole Hearings shall succeed to and is hereby vested with all of the powers and duties exercised and performed by the following boards when such powers and duties are not otherwise vested by law:

- (1) The Board of Prison Terms and Paroles.
- (2) The Advisory Pardon Board.
- (3) The Adult Authority.
- (4) The Women's Board of Terms and Paroles.
- (5) The Community Release Board.

SEC. 19. Section 5003 of the Penal Code is amended to read:

5003. The department has jurisdiction over all of the following prisons and institutions:

- (a) The San Quentin Rehabilitation Center.
- (b) The California State Prison at Folsom.
- (c) The California Institution for Men.
- (d) The California Institution for Women.
- (e) The Deuel Vocational Institution.
- (f) The California Medical Facility.
- (g) The Correctional Training Facility.

- (h) The California Men's Colony.
- (i) The California Correctional Institution at Tehachapi.
- (j) The California Rehabilitation Center.
- (k) The California Correctional Center at Susanville.
- (l) The Sierra Correctional Center.
- (m) The Richard J. Donovan Correctional Facility at Rock Mountain.
- (n) Mule Creek State Prison.
- (o) Northern California Women's Facility.
- (p) Pelican Bay State Prison.
- (q) Avenal State Prison.
- (r) California State Prison—King's County at Corcoran.
- (s) Chuckawalla Valley State Prison.
- (t) Other institutions and prison facilities that the Department of Corrections and Rehabilitation or the Secretary of the Department of Corrections and Rehabilitation may be authorized by law to establish, including, but not limited to, prisons in the Counties of Imperial, Kern, Los Angeles, and Madera.

SEC. 20. Section 5006 of the Penal Code is amended to read:

5006. (a) (1) All moneys now held for the benefit of inmates currently housed in Department of Corrections and Rehabilitation facilities including those known as the Inmate Canteen Fund of the California Institution for Men; the Inmate Welfare Fund of the California Institution for Women; the Trust Contingent Fund of the California State Prison at Folsom; the S.P.L. Commissary, Canteen Account, Hobby Association, Camp Account, Library Fund, News Agency of the San Quentin Rehabilitation Center, the Prisoners' Fund; and the Prisoners' Employment Fund, shall be deposited in the Inmate Welfare Fund of the Department of Corrections and Rehabilitation, in the State Treasury, which is hereby created. The money in the fund shall be used solely for the benefit and welfare of inmates of prisons and institutions under the jurisdiction of the Department of Corrections and Rehabilitation, including the following:

(A) The establishment, maintenance, employment of personnel for, and purchase of items for sale to inmates at canteens maintained at the state institutions.

(B) The establishment, maintenance, employment of personnel, and necessary expenses in connection with the operation of the hobby shops at institutions under the jurisdiction of the department.

(C) Educational programs, hobby and recreational programs, which may include physical education activities and hobby craft classes, inmate family visiting services, leisure-time activities, and assistance with obtaining photo identification from the Department of Motor Vehicles.

(D) Funding for innovative programming by not-for-profit organizations offering programs that have demonstrated success and focus on offender responsibility and restorative justice principles. All funding used for this purpose shall go directly to the not-for-profit organizations and shall not be used for department staff or administration of the programming.

(2) The warden of each institution, in collaboration with at least two representatives from local or state advocacy groups for inmates and two members of either the men's or women's advisory council or similar group within each institution, shall meet at least biannually to determine how the money in the fund shall be used to benefit the inmates of the respective institution. It is the intent of the Legislature that the funds only be expended on services other than those that the department is required to provide to inmates.

(b) There shall be deposited in the Inmate Welfare Fund all net proceeds from the operation of canteens and hobby shops and any moneys that may be assigned to the state prison by prisoners for deposit in the fund. The moneys in the fund shall constitute a trust held by the Secretary of the Department of Corrections and Rehabilitation for the benefit and welfare, as herein defined, of all of the inmates of institutions and prisons under the jurisdiction of the department.

(c) The Department of Finance shall conduct a biennial audit of the Inmate Welfare Fund to include an audit report that shall summarize expenditures from the fund by major categories. At the end of each intervening fiscal year, a statement of operations shall be prepared that shall contain the same information as would be provided in the biennial audit. At least one copy of any statement of operations or audit report shall be placed in each library maintained by the Department of Corrections and Rehabilitation and shall be available there to any inmate.

SEC. 21. Section 5033 is added to the Penal Code, to read:

5033. (a) The Legislature finds and declares all of the following:

(1) It is the intent of the Legislature to close additional prisons in the state prison system.

(2) Maintaining prison capacity beyond what is necessary for safety, operational flexibility, and to support rehabilitation is not cost effective and reducing excess capacity of the prison system would create savings that may be used for rehabilitative and other purposes.

(b) To help inform decisions relating to prison closures, the department shall prepare and submit to the budget committees of both houses of the Legislature, a preliminary assessment on or before August 15, 2023, and a completed assessment on or before November 15, 2023, of systemwide capacity, including an estimate of the department's overall housing needs based on its population projections. The department shall include information relating to the necessary operational capacity for each state-owned and -operated prison that allows each facility to operate in a manner that is rehabilitative, safe, and cost efficient. The department shall include an assessment of available space for educational and rehabilitative programming, health care services, specialized bed needs, flexible bed needs, including those needed for quarantines or natural disasters, and space needed to comply with class action litigation requirements. The preliminary assessment shall include the department's methodology and preliminary data and findings.

SEC. 22. Section 6405 is added to the Penal Code, to read:

6405. (a) By July 1, 2024, upon request by a visitor, the department shall scan documents into the Strategic Offender Management Systems (SOMS), including, but not limited to, all of the following:

- (1) A birth certificate for a visiting minor.
- (2) A parental consent form for a visiting minor.
- (3) A marriage license or domestic partnership form for a person attending an approved family visit.
- (4) A birth certificate for a parent or sibling attending an approved family visit.
- (5) A medical note for a visitor.

(b) For an in-person visit, the department shall allow a visitor with an infant or toddler to bring items, including, but not limited to, all of the following:

(1) A combination of six factory-sealed single-serving packets of baby formula or four transparent plastic baby bottles or cups that are empty or contain premixed formula, milk, almond milk, soy milk, rice milk, lactose-free milk, juice, or water; a breast pump and associated supplies; and refrigerated or frozen breastmilk.

- (2) Six nonglass containers of baby food or snacks in sealed packaging.
- (3) Two plastic spoons.
- (4) Ten disposable diapers.
- (5) One sealed package of baby wipes.
- (6) Three changes of clothing.
- (7) Two small blankets.
- (8) Two pacifiers.
- (9) Three burp cloths.
- (10) Diaper cream.
- (11) A baby carrier or wrap.
- (12) A clear plastic diaper bag.

(c) For an approved family visit, the department shall allow a visitor to bring items, including, but not limited to, all of the following:

(1) Personal linens, including a mattress cover, flat sheet, fitted sheet, single layer blanket, bath towel, hand towel, and washcloth, for each person and for the length of the visit.

- (2) A bath mat and disposable shower curtain.
- (3) An unopened, sealed lubricant bottle.

(4) Items for infants or toddlers, including all of the following:

(A) A combination of 14 factory-sealed single-serving packets of baby formula; one factory-sealed container of milk for each day of the visit, including formula milk, almond milk, soy milk, oat milk, rice milk, or lactose-free milk; four transparent plastic baby bottles or cups; a breast pump and associated supplies; and refrigerated or frozen breastmilk.

(B) Two gallons of factory-sealed distilled water.

(C) Factory-sealed juice.

(D) Six nonglass containers of baby food or snacks in sealed packaging for each day of the visit.

(E) Two plastic spoons.

- (F) One package of diapers.
- (G) One sealed package of baby wipes.
- (H) Three changes of clothing for each day of the visit.
- (I) Two small blankets.
- (J) Two pacifiers.
- (K) Three burp cloths.
- (L) Diaper cream.
- (M) A baby carrier or wrap.
- (N) A clear plastic diaper bag.

(d) For an in-person visit or an approved family visit, the department shall allow a visitor to bring menstrual hygiene products.

(e) For an in-person visit or an approved family visit, the department shall allow a visiting minor to, at minimum, bring two non-battery-operated toys, two children's books, and up to 10 pages of homework or coloring pages.

(f) This section does not preclude the department from conducting routine inspections of these items, including to search for contraband and to identify potential security risks.

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

- (1) "Infant" means a child less than 12 months of age.
- (2) "Toddler" means a child 12 to 36, inclusive, months of age.

SEC. 23. Section 13777 of the Penal Code is amended to read:

13777. (a) The Attorney General shall do each of the following:

(1) Collect information relating to anti-reproductive-rights crimes, including, but not limited to, the threatened commission of these crimes and persons suspected of committing these crimes or making these threats.

(2) Direct local law enforcement agencies, district attorneys, and elected city attorneys to provide to the Department of Justice, in a manner that the Attorney General prescribes, all of the following on a monthly basis:

(A) The total number of anti-reproductive-rights crime-related calls for assistance made to the department;

(B) The total number of arrests for anti-reproductive-rights crimes, reported by which subdivision of Section 423.2 is the basis for the arrest. The report of each crime that violates any other law shall note the code, section, and subdivision that prohibits the crime. The report of any crime that violates both Section 423.2 and any other law shall note both the subdivision of Section 423.2 and the other code, section, and subdivision that prohibits the crime.

(C) The total number of cases in which the district attorney charged an individual with a crime that violates Section 423.2, including the subdivision that prohibits the crime.

(3) Beginning July 1, 2025, report to the Legislature on an annual basis the information collected pursuant to paragraph (2). To avoid production and distribution costs, the Attorney General may submit the reports electronically or as part of any other report that the Attorney General submits.

(4) Develop a plan to prevent, apprehend, prosecute, and report anti-reproductive-rights crimes, and to carry out the legislative intent

expressed in subdivisions (c), (d), (e), and (f) of Section 1 of the act that enacts this title in the 2001–02 Regular Session of the Legislature.

(b) In carrying out their responsibilities under this section, the Attorney General shall consult the Governor, the Commission on Peace Officer Standards and Training, and other subject matter experts.

SEC. 24. Section 30012 of the Penal Code is amended to read:

30012. (a) No later than March 15, 2024, and no later than March 15 of each year thereafter, the Department of Justice shall report to the Joint Legislative Budget Committee and the fiscal committees of each house of the Legislature all of the following information for the immediately preceding calendar year:

(1) The total number of individuals in the Armed Prohibited Persons System (APPS) and the number of cases which are active and pending, as follows:

(A) (i) For active cases, the department shall report the status of each case for which the department has initiated an investigation. This information shall include, at a minimum, the number of cases that have not been actively investigated for 12 months or longer, along with a breakdown of the time period that has elapsed since a case was added to the system.

(ii) For purposes of this paragraph, “investigation” means any work conducted by sworn or nonsworn staff to determine whether a prohibited person possesses one or more firearms, whether to remove the person from the database, or whether to shift the person to the pending caseload.

(B) For pending cases, the department shall separately report the number of cases that are unable to be cleared, unable to be located, related to out-of-state individuals, related to only federal firearms prohibitions, and related to incarcerated individuals.

(2) The number of individuals added to the APPS database.

(3) The number of individuals removed from the APPS database, including a breakdown of the basis on which they were removed. At a minimum, this information shall separately report those cases that were removed because the individual is deceased, had prohibitions expire or removed, or had their cases resolved as a result of department firearm seizure activities.

(4) The degree to which the backlog in the APPS has been reduced or eliminated. For purposes of this section, “backlog” means the number of cases for which the department did not initiate an investigation within six months of the case being added to the APPS or has not completed investigatory work within six months of initiating an investigation on the case.

(5) The number of individuals in the APPS before and after the relevant reporting period, including a breakdown of why each individual in the APPS is prohibited from possessing a firearm.

(6) The number of agents and other staff hired for enforcement of the APPS.

(7) The number of firearms recovered due to enforcement of the APPS.

(8) The number of contacts made during the APPS enforcement efforts.

(9) Information regarding task forces or collaboration with local law enforcement on reducing the APPS file or backlog.

(b) For purposes of this section, “Armed Prohibited Persons System” means the “Prohibited Armed Persons File,” as described in Section 30000.

SEC. 25. Article 6.5.1 (commencing with Section 10199) is added to Chapter 1 of Part 2 of Division 2 of the Public Contract Code, to read:

Article 6.5.1. San Quentin Progressive Design-Build Contracting

10199. For purposes of this article, the following definitions apply:

(a) “Best value” means a value determined by evaluation of objective criteria that may include, but are not limited to, cost factors, price, features, functions, life-cycle costs, experience, and past performance. A best value determination may involve the selection of the lowest cost proposal meeting the interests of the department and meeting the objectives of the project, or a tradeoff between cost and other specified factors.

(b) “Construction subcontract” means each subcontract awarded by the design-build entity to a subcontractor that will perform work or labor or render service to the design-build entity in or about the construction of the work or improvement, or a subcontractor licensed by the State of California that, under subcontract to the design-build entity, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications produced by the design-build team.

(c) “Department” means the Department of Corrections and Rehabilitation.

(d) “Design-build entity” means a corporation, limited liability company, partnership, joint venture, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.

(e) “Design-build project” means the San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center project authorized in the 2023 Budget Act, which includes the demolition of Building 38 and the design and construction of a new educational and vocational center, using the progressive design-build construction procurement process described in this article.

(f) “Design-build team” means the design-build entity itself and the individuals and other entities identified by the design-build entity as members of its team. Members shall include the general contractor and, if utilized in the design of the project, all civil, geotechnical, electrical, mechanical, and plumbing contractors.

(g) “Secretary” means the Secretary of the Department of Corrections and Rehabilitation or their designee.

(h) “Guaranteed maximum price” means the maximum payment amount agreed upon by the department and the design-build entity for the design-build entity to finish all remaining design, preconstruction, and

construction activities sufficient to complete and close out the demolition of Building 38 or the remainder of the design-build project.

(i) “Progressive design-build” means a project delivery process in which the design, preconstruction services, and construction of a project are procured, in one or more stages, from a single design-build entity that is selected through a qualifications-based selection at the earliest feasible stage of the project. However, the progressive design-build model offers flexibility to retain a different entity for the construction phase of the project, should the parties be unable to agree, after a specified portion of the design phase is complete, on a guaranteed maximum price for the construction phase.

(j) “Qualifications-based selection” means the process by which the department solicits for services from the design-build entities and that best value is the basis of the award.

10199.1. (a) Notwithstanding any other law, the secretary may procure progressive design-build contracts for the design-build project.

(b) The secretary shall develop guidelines for a standard organizational conflict-of-interest policy, consistent with applicable law, regarding the ability of a person or entity that performs services for the department relating to the solicitation of a design-build project, to submit a statement of qualifications, a proposal, or both as a design-build entity, or to join a design-build team.

10199.2. The procurement process for a progressive design-build project shall progress as follows:

(a) The department shall determine the scope and estimated price of the design-build project. The determination may include, but need not be limited to, the size, type, and desired design character of the project and any other information deemed necessary to describe adequately the department’s needs.

(b) The department shall prepare and issue a request for qualifications. The request for qualifications shall include, but is not limited to, all of the following elements:

(1) Identification of the basic scope and needs of the design-build project or contract, the expected cost range, the methodology that will be used by the department to evaluate qualifications, the procedure for final selection of the design-build entity, and any other information deemed necessary by the department to inform interested parties of the contracting opportunity.

(2) Significant factors that the department reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, and all other non-price-related factors. The department may require that a cost estimate, including the detailed basis for the estimate, be included in the design-build entities’ responses and consider those costs in evaluating the statements of qualifications.

(3) The relative importance or the weight assigned to each of the factors identified in the request for qualifications.

(4) A request for statements of qualifications with a template for the statement that is prepared by the department. The department shall require

all of the following information in the statement and indicate, in the template, that all of the following information is required:

(A) If the design-build entity is a privately held corporation, limited liability company, partnership, or joint venture, a listing of all of the entity's shareholders, partners, or members who will perform work on the project that are known at the time of the statement of qualification is submitted.

(B) Evidence that the members of the design-build team have completed, or have demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the design-build project, and a financial statement that ensures that the design-build entity has the capacity to complete the project.

(C) The licenses, registration, and credentials required to design and construct the design-build project, including, but not limited to, information on the revocation or suspension of any license, credential, or registration.

(D) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.

(E) Information concerning workers' compensation experience history and a worker safety program.

(F) If the proposed design-build entity is a corporation, limited liability company, partnership, joint venture, or other legal entity, a copy of the organizational documents or agreement committing to form the organization.

(G) An acceptable safety record. A proposer's safety record shall be deemed acceptable if its experience modification rate for the most recent three-year period is an average of 1.00 or less, and its average total recordable injury or illness rate and average lost work rate for the most recent three-year period does not exceed the applicable statistical standards for its business category or if the proposer is a party to an alternative dispute resolution system as provided for in Section 3201.5 of the Labor Code.

(H) A full disclosure regarding each of the following, if applicable:

(i) Any serious or willful violation of Part 1 (commencing with Section 6300) of Division 5 of the Labor Code or the federal Occupational Safety and Health Act of 1970 (Public Law 91-596), settled against any member of the design-build entity.

(ii) Any debarment, disqualification, or removal from a federal, state, or local government public works project.

(iii) Any instance in which the design-build entity, or its owners, officers, or managing employees, submitted a bid on a public works project and were found to be nonresponsive or were found by an awarding body not to be a responsible bidder.

(iv) Any instance in which the design-build entity, or its owners, officers, or managing employees, defaulted on a construction contract.

(v) Any violations of the Contractors State License Law, as described in Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, including alleged violations of federal or state law

regarding the payment of wages, benefits, apprenticeship requirements, or personal income tax withholding, or Federal Insurance Contributions Act withholding requirements settled against any member of the design-build entity.

(vi) Any bankruptcy or receivership of any member of the design-build entity, including, but not limited to, information concerning any work completed by a surety.

(vii) Any settled adverse claims, disputes, or lawsuits between the owner of a public works project and any member of the design-build entity during the five years preceding submission of a bid under this article in which the claim, settlement, or judgment exceeded fifty thousand dollars (\$50,000). Information shall also be provided concerning any work completed by a surety during this five-year period.

(5) The information provided by a design-build entity in response to a request for qualifications shall be certified under penalty of perjury by the design-build entity and its general partners or joint venture members.

(c) (1) Following the deadline for submission of a statement of qualifications, the department shall review the submissions. The department may evaluate submissions based solely upon the information provided in each design-build entity's statement of qualifications. The department may also interview some or all of the design-build entities to further evaluate their qualifications for the design-build project. The department may also hold discussions or negotiations with design-build entities using the process described in the department's request for qualifications.

(2) For each request for qualification, the department shall generate a final list of qualified design-build entities that participated in the request for qualifications prior to entering into negotiations for the contract or contracts to which the request for qualifications applies.

(3) If submissions in response to a request for qualifications provide sufficient information to determine which qualified design-build entity has offered the best value to the public, the department may enter into negotiations with the entity concerning contract terms and award a contract or contracts for design and preconstruction services for the demolition of Building 38 and the remainder of the design-build project to that entity. Such contract or contracts shall provide for the subsequent negotiation of terms governing the construction phase of the demolition of Building 38 and the remainder of the design-build project. If the department is unable to negotiate a satisfactory contract or contracts with that entity for design and preconstruction services, the department may undertake negotiations with another qualified design-build entity that participated in the request for qualifications process.

(4) If additional information is necessary to determine which qualified design-build entity offers the best value to the public, the department may prepare a further request for proposals, based on the documents prepared as described in subdivision (a), that invites qualified design-build entities identified pursuant to paragraph (2) to submit competitive sealed proposals in the manner prescribed by the department.

(d) Notwithstanding any other provision of this code, upon issuance of a contract award, the department shall publicly announce its award, identifying the design-build entity to which the award is made, along with a statement regarding the basis of the award. The statement regarding the contract award and the contract file shall provide sufficient information to satisfy an external audit.

10199.3. (a) The design-build entity shall provide payment and performance bonds for the design-build project in the form and in the amount required by the secretary, which are issued by a California admitted surety. The amount of the payment bond shall not be less than the amount of the performance bond.

(b) The design-build contract shall require errors and omissions insurance coverage for the design elements of the design-build project.

(c) The department shall develop a standard form of payment and performance bond for its design-build project.

10199.4. (a) After selecting a design-build entity for the design and preconstruction phase, the department may enter into a contract or contracts and direct the design-build entity to begin design and preconstruction activities sufficient to establish a separate guaranteed maximum price for the demolition of Building 38 and the remainder of the design-build project.

(b) Subject to Section 13332.19 of the Government Code, upon agreement of the guaranteed maximum price for the demolition of Building 38 or the remainder of the design-build project, the department, at its sole and absolute discretion, may amend its contract or contracts with the design-build entity or enter into a new contract or contracts, and direct the design-build entity to complete the remaining design, preconstruction, and construction activities sufficient to complete and close out the demolition of Building 38 or the remainder of the design-build project, and may add funds not exceeding the guaranteed maximum price to the contract for these activities. Any amendment of the existing contract or contracts or entering into a new contract or contracts with the design-build entity shall not require any additional competitive process. This section does not require the department to amend an existing contract or enter into a new contract for remaining design, preconstruction, or construction activities.

(c) If the cost for completing all remaining design, preconstruction, and construction activities sufficient to complete and close out the design-build project exceeds the guaranteed maximum price, the costs exceeding the guaranteed maximum price shall be the responsibility of the design-build entity. If the cost for these activities is less than the guaranteed maximum price, the design-build entity shall not be entitled to the difference between the cost and the guaranteed maximum price. These amounts shall revert to the fund from which the appropriation was made.

(d) If the department and the design-build entity do not reach an agreement on a guaranteed maximum price for the demolition of Building 38 or the remainder of the design-build project, or the department otherwise elects not to amend the design-build entity's contract or contracts to complete the demolition of Building 38 or the remainder of the design-build project,

the department may solicit proposals to complete the demolition of Building 38 or the remainder of the design-build project from firms that submitted statements of qualifications pursuant to Section 10199.2. The department may also, upon written determination that it is in the best interest of the state to do so, formally solicit proposals from other design-build entities to complete the demolition of Building 38 or the remainder of the design-build project or complete the design-build project using other delivery methods. Subject to Section 13332.19 of the Government Code, a contract award shall be made on a best value basis.

10199.5. (a) The department, in the request for qualifications or request for proposals, may identify specific types of subcontractors that are required to be included in the design-build entity's statement of qualifications. All construction subcontractors that are identified in the statement of qualifications shall be afforded the protections of Chapter 4 (commencing with Section 4100) of Part 1.

(b) Following award of the design-build contract, except for those construction subcontractors listed in the statement of qualifications or proposal, the design-build entity shall proceed as follows in awarding construction subcontracts with a value exceeding one-half of 1 percent of the contract price allocable to construction work.

(1) Provide public notice of availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the department, including a fixed date and time on which qualifications statements, bids, or proposals will be due.

(2) Establish reasonable qualification criteria and standards.

(3) Award the subcontract either on a best value basis or to the lowest responsible bidder. The process may include prequalification or short-listing.

(c) Subcontractors awarded construction subcontracts under this subdivision shall be afforded all the protections of Chapter 4 (commencing with Section 4100) of Part 1.

10199.6. This article does not affect, expand, alter, or limit any rights or remedies otherwise available at law.

SEC. 26. Section 5029.7 is added to the Public Resources Code, to read:

5029.7. (a) Subdivision (f) of Section 5024 shall not apply to the San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center project and the San Quentin Rehabilitation Center, San Quentin: Improvement Projects authorized in the 2023 Budget Act, or any actions or approvals related to those projects.

(b) Section 5024.5 shall not apply to any actions related to the demolition, design, or construction of the San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New Educational and Vocational Center project and the San Quentin Rehabilitation Center, San Quentin: Improvement Projects authorized in the 2023 Budget Act.

SEC. 27. Section 21097 is added to the Public Resources Code, to read:

21097. This division does not apply to the San Quentin Rehabilitation Center, San Quentin: Demolition of Building 38 and Construction of New

Educational and Vocational Center project and the San Quentin Rehabilitation Center, San Quentin: Improvement Projects located on the grounds of the San Quentin Rehabilitation Center.

SEC. 28. Section 208.55 is added to the Welfare and Institutions Code, to read:

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

(1) “Juvenile” means a person who meets any of the following criteria:

(A) A person under 18 years of age.

(B) A person under the maximum age of juvenile court jurisdiction who is not currently an incarcerated adult as defined by this section.

(C) A person whose case originated in the juvenile court and is subject to Section 208.5.

(2) “Juvenile facility” means a local juvenile hall, special purpose juvenile hall, ranch or camp, secure youth treatment facility, or any other juvenile facility that is subject to compliance monitoring by the state administrative agency designated to implement the federal Juvenile Justice and Delinquency Prevention Act of 1974 and subsequent reauthorizations and amendments thereto (34 U.S.C. Sec. 11131 et seq.).

(3) “Sight or sound contact” means any physical, clear visual, or direct verbal contact that is not brief and inadvertent.

(4) “Subject to the jurisdiction of the juvenile court” means a person alleged or found to be subject to Section 601, 602, 607, or 875.

(5) “Incarcerated adult” means a person who is 18 years of age or older, not subject to the jurisdiction of the juvenile court, and has been arrested and is in custody for, or awaiting trial on, a criminal charge, or has been convicted of a criminal offense, and is not a juvenile defined under subparagraph (C) of paragraph (1).

(b) The following shall apply to persons detained in a juvenile facility as it relates to sight or sound contact:

(1) A juvenile may have sight or sound contact with other juveniles.

(2) An incarcerated adult who is detained in a juvenile facility shall not have sight and sound contact with juveniles under 18 years of age.

(3) For the purposes of clarification only, a juvenile who is still under the jurisdiction of the juvenile court and who participates in the Pine Grove Youth Conservation Camp pursuant to Section 1760.45 shall be considered a juvenile if returned to a local juvenile facility.

SEC. 29. Section 209 of the Welfare and Institutions Code is amended to read:

209. (a) (1) The judge of the juvenile court of a county, or, if there is more than one judge, any of the judges of the juvenile court shall, at least annually, inspect any jail, juvenile hall, or special purpose juvenile hall that, in the preceding calendar year, was used for confinement, for more than 24 hours, of any juvenile.

(2) The judge shall promptly notify the operator of the jail, juvenile hall, or special purpose juvenile hall of any observed noncompliance with minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210. Based on the facility’s

subsequent compliance with the provisions of subdivisions (d) and (e), the judge shall thereafter make a finding whether the facility is a suitable place for the confinement of juveniles and shall note the finding in the minutes of the court.

(3) (A) The Board of State and Community Corrections shall conduct a biennial inspection of each jail, juvenile hall, lockup, special purpose juvenile hall, camp, ranch, or secure youth treatment facility situated in this state that, during the preceding calendar year, was used for confinement, for more than 24 hours, of any juvenile. The board shall promptly notify the operator of any jail, juvenile hall, lockup, special purpose juvenile hall, camp, ranch, or secure youth treatment facility of any noncompliance found, upon inspection, with any of the minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210, 210.2, 875, or 885.

(B) Any duly authorized officer, employee, or agent of the board may, upon presentation of proper identification, enter and inspect any area of any juvenile local detention facility, without notice, to conduct an inspection required by this paragraph.

(4) If either a judge of the juvenile court or the board, after inspection of a jail, juvenile hall, special purpose juvenile hall, lockup, camp, ranch, or secure youth treatment facility finds that it is not being operated and maintained as a suitable place for the confinement of juveniles, the juvenile court or the board shall give notice of its finding to all persons having authority to confine juveniles pursuant to this chapter and commencing 60 days thereafter the facility shall not be used for confinement of juveniles until the time the judge or board, as the case may be, finds, after reinspection of the facility that the conditions that rendered the facility unsuitable have been remedied, and the facility is a suitable place for confinement of juveniles.

(5) The custodian of each jail, juvenile hall, special purpose juvenile hall, lockup, camp, ranch, or secure youth treatment facility shall make any reports as may be requested by the board or the juvenile court to effectuate the purposes of this section.

(b) (1) The Board of State and Community Corrections may inspect any law enforcement facility that contains a lockup for adults and that it has reason to believe may not be in compliance with the requirements of subdivision (b) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2. A judge of the juvenile court shall conduct an annual inspection, either in person or through a delegated member of the appropriate county or regional juvenile justice commission, of any law enforcement facility that contains a lockup for adults which, in the preceding year, was used for the secure detention of any juvenile. If the law enforcement facility is observed, upon inspection, to be out of compliance with the requirements of subdivision (b) of Section 207.1, or with any standard adopted under Section 210.2, the board or the judge shall promptly notify the operator of the law enforcement facility of the specific points of noncompliance.

(2) If either the judge or the board finds after inspection that the facility is not being operated and maintained in conformity with the requirements of subdivision (b) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2, the juvenile court or the board shall give notice of its finding to all persons having authority to securely detain juveniles in the facility, and, commencing 60 days thereafter, the facility shall not be used for the secure detention of a juvenile until the time the judge or the board, as the case may be, finds, after reinspection, that the conditions that rendered the facility unsuitable have been remedied, and the facility is a suitable place for the confinement of juveniles in conformity with all requirements of law.

(3) The custodian of each law enforcement facility that contains a lockup for adults shall make any report as may be requested by the board or by the juvenile court to effectuate the purposes of this subdivision.

(c) The board shall collect biennial data on the number, place, and duration of confinements of juveniles in jails and lockups, as defined in subdivision (g) of Section 207.1, and shall publish biennially this information in the form as it deems appropriate for the purpose of providing public information on continuing compliance with the requirements of Section 207.1.

(d) Except as provided in subdivision (e), a juvenile hall, special purpose juvenile hall, camp, ranch, secure youth treatment facility, law enforcement facility, or jail shall be unsuitable for the confinement of juveniles if it is not in compliance with one or more of the minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210, 210.2, 875, or 885, and if, within 60 days of having received notice of noncompliance from the board or the judge of the juvenile court, the juvenile hall, special purpose juvenile hall, camp, ranch, secure youth treatment facility, law enforcement facility, or jail has failed to file an approved corrective action plan with the Board of State and Community Corrections to correct the condition or conditions of noncompliance of which it has been notified. The corrective action plan shall outline how the juvenile hall, special purpose juvenile hall, camp, ranch, secure youth treatment facility, law enforcement facility, or jail plans to correct the issue of noncompliance and give a reasonable timeframe, not to exceed 90 days, for resolution, that the board shall either approve or deny. In the event the juvenile hall, special purpose juvenile hall, camp, ranch, secure youth treatment facility, law enforcement facility, or jail fails to meet its commitment to resolve noncompliance issues outlined in its corrective action plan, the board shall make a determination of suitability at its next scheduled meeting.

(e) If a juvenile hall, special purpose juvenile hall, camp, ranch, or secure youth treatment facility is not in compliance with one or more of the minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210, 875, or 885, and where the noncompliance arises from sustained occupancy levels that are above the population capacity permitted by applicable minimum standards, the juvenile

hall shall be unsuitable for the confinement of juveniles if the board or the judge of the juvenile court determines that conditions in the facility pose a serious risk to the health, safety, or welfare of juveniles confined in the facility. In making its determination of suitability, the board or the judge of the juvenile court shall consider, in addition to the noncompliance with minimum standards, the totality of conditions in the juvenile hall, special purpose juvenile hall, camp, ranch, or secure youth treatment facility, including the extent and duration of overpopulation as well as staffing, program, physical plant, and medical and mental health care conditions in the facility. The Board of State and Community Corrections may develop guidelines and procedures for its determination of suitability in accordance with this subdivision and to assist counties in bringing their juvenile halls, special purpose juvenile hall, camp, ranch, or secure youth treatment facility into full compliance with applicable minimum standards. This subdivision shall not be interpreted to exempt a juvenile hall, special purpose juvenile hall, camp, ranch, or secure youth treatment facility from having to correct, in accordance with subdivision (d), any minimum standard violations that are not directly related to overpopulation of the facility.

(f) In accordance with the federal Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. Sec. 5601 et seq.) and subsequent reauthorizations, the Board of State and Community Corrections shall inspect and collect relevant data from any facility that may be used for the secure detention of juveniles.

(g) All reports and notices of findings prepared by the Board of State and Community Corrections pursuant to this section shall be posted on the Board of State and Community Corrections' internet website in a manner in which they are accessible to the public.

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

(1) "Juvenile" means a person who meets any of the following criteria:

(A) A person under 18 years of age.

(B) A person under the maximum age of juvenile court jurisdiction who is not currently an incarcerated adult as defined in paragraph (2) of this subdivision.

(C) A person whose case originated in the juvenile court and is subject to Section 208.5.

(2) "Incarcerated adult" means a person who is 18 years of age or older, not subject to the jurisdiction of the juvenile court, and has been arrested and is in custody for, or awaiting trial on, a criminal charge, or has been convicted of a criminal offense, and is not a juvenile defined in subparagraph (C) of paragraph (1) of this subdivision.

(3) "Subject to the jurisdiction of the juvenile court" means a person alleged or found to be subject to Section 601, 602, 607, or 875.

(i) Nothing in this section shall be construed as requiring the judge of the juvenile court or the board to make determinations of suitability for local correctional facilities based on standards adopted pursuant to Section 6030 of the Penal Code.

SEC. 30. Section 875 of the Welfare and Institutions Code is amended to read:

875. (a) In addition to the types of treatment specified in Sections 727 and 730, commencing July 1, 2021, the court may order that a ward who is 14 years of age or older be committed to a secure youth treatment facility for a period of confinement described in subdivision (b) if the ward meets all of the following criteria:

(1) The juvenile is adjudicated and found to be a ward of the court based on an offense listed in subdivision (b) of Section 707 that was committed when the juvenile was 14 years of age or older.

(2) The adjudication described in paragraph (1) is the most recent offense for which the juvenile has been adjudicated.

(3) The court has made a finding on the record that a less restrictive, alternative disposition for the ward is unsuitable. In determining this, the court shall consider all relevant and material evidence, including the recommendations of counsel, the probation department, and any other agency or individual designated by the court to advise on the appropriate disposition of the case. The court shall additionally make its determination based on all of the following criteria:

(A) The severity of the offense or offenses for which the ward has been most recently adjudicated, including the ward's role in the offense, the ward's behavior, and harm done to victims.

(B) The ward's previous delinquent history, including the adequacy and success of previous attempts by the juvenile court to rehabilitate the ward.

(C) Whether the programming, treatment, and education offered and provided in a secure youth treatment facility is appropriate to meet the treatment and security needs of the ward.

(D) Whether the goals of rehabilitation and community safety can be met by assigning the ward to an alternative, less restrictive disposition that is available to the court.

(E) The ward's age, developmental maturity, mental and emotional health, sexual orientation, gender identity and expression, and any disabilities or special needs affecting the safety or suitability of committing the ward to a term of confinement in a secure youth treatment facility.

(b) (1) In making its order of commitment for a ward, the court shall set a baseline term of confinement for the ward that is based on the most serious recent offense for which the ward has been adjudicated. The baseline term of confinement shall represent the time in custody necessary to meet the developmental and treatment needs of the ward and to prepare the ward for discharge to a period of probation supervision in the community. The baseline term of confinement for the ward shall be determined according to offense-based classifications that are approved by the Judicial Council, as described in subdivision (h). Pending the development and adoption of offense-based classifications by the Judicial Council, the court shall set a baseline term of confinement for the ward utilizing the discharge consideration date guidelines applied by the Department of Corrections and Rehabilitation, Division of Juvenile Justice prior to its closure and as set

forth in Sections 30807 to 30813, inclusive, of Title 9 of the California Code of Regulations. These guidelines shall be used only to determine a baseline confinement time for the ward and shall not be used or relied on to modify the ward's confinement time in any manner other than as provided in this section. The court may, pending the adoption of Judicial Council guidelines, modify the initial baseline term with a deviation of plus or minus six months. The baseline term shall also be subject to modification in progress review hearings as described in subdivision (e).

(2) For youth transferred from the Division of Juvenile Justice and committed to a secure youth treatment facility, the baseline term of confinement shall not exceed a youth's projected juvenile parole board date as defined in paragraph (12) of Section 30800 of Title 9 of the California Code of Regulations, at the time of their transfer from the Division of Juvenile Justice. Youth shall receive credit against their secure youth treatment facility baseline term for all programs completed or substantially completed at the Division of Juvenile Justice, as reflected in the transition report completed by the Division of Juvenile Justice.

(c) (1) In making its order of commitment, the court shall additionally set a maximum term of confinement for the ward based upon the facts and circumstances of the matter or matters that brought or continued the ward under the jurisdiction of the court and as deemed appropriate to achieve rehabilitation. The maximum term of confinement shall represent the longest term of confinement in a facility that the ward may serve subject to the following:

(A) A ward committed to a secure youth treatment facility under this section shall not be held in secure confinement beyond 23 years of age, or two years from the date of the commitment, whichever occurs later. However, if the ward has been committed to a secure youth treatment facility based on adjudication for an offense or offenses for which the ward, if convicted in adult criminal court, would face an aggregate sentence of seven or more years, the ward shall not be held in secure confinement beyond 25 years of age, or two years from the date of commitment, whichever occurs later.

(B) The maximum term of confinement shall not exceed the middle term of imprisonment that can be imposed upon an adult convicted of the same offense or offenses. If the court elects to aggregate the period of physical confinement on multiple counts or multiple petitions, including previously sustained petitions adjudging the minor a ward within Section 602, the maximum term of confinement shall be the aggregate term of imprisonment specified in subdivision (a) of Section 1170.1 of the Penal Code, which includes any additional term imposed pursuant to Section 667, 667.5, 667.6, or 12022.1 of the Penal Code, and Section 11370.2 of the Health and Safety Code.

(C) Precommitment credits for time served must be applied against the maximum term of confinement as set pursuant to this subdivision.

(2) For purposes of this section, “maximum term of confinement” has the same meaning as “maximum term of imprisonment,” as defined in paragraph (2) of subdivision (d) of Section 726.

(d) (1) Within 30 judicial days of making an order of commitment to a secure youth treatment facility, the court shall receive, review, and approve an individual rehabilitation plan that meets the requirements of paragraph (2) for the ward that has been submitted to the court by the probation department and any other agencies or individuals the court deems necessary for the development of the plan. The plan may be developed in consultation with a multidisciplinary team of youth service, mental and behavioral health, education, and other treatment providers who are convened to advise the court for this purpose. The prosecutor and the counsel for the ward may provide input in the development of the rehabilitation plan prior to the court’s approval of the plan. The plan may be modified by the court based on all of the information provided.

(2) An individual rehabilitation plan shall do all of the following:

(A) Identify the ward’s needs in relation to treatment, education, and development, including any special needs the ward may have in relation to health, mental or emotional health, disabilities, or gender-related or other special needs.

(B) Describe the programming, treatment, and education to be provided to the ward in relation to the identified needs during the commitment period.

(C) Reflect, and be consistent with, the principles of trauma-informed, evidence-based, and culturally responsive care.

(D) The ward and their family shall be given the opportunity to provide input regarding the needs of the ward during the identification process stated in subparagraph (A), and the opinions of the ward and the ward’s family shall be included in the rehabilitation plan report to the court.

(e) (1) (A) The court shall, during the term of commitment, including any term spent in a less restrictive program pursuant to subdivision (f), schedule and hold a progress review hearing for the ward not less frequently than once every six months. In the review hearing, the court shall evaluate the ward’s progress in relation to the rehabilitation plan and shall determine whether the baseline term of confinement is to be modified. The court shall consider the recommendations of counsel, the probation department and any behavioral, educational, or other specialists having information relevant to the ward’s progress. At the conclusion of each review hearing, upon making a finding on the record, the court may order that the ward remain in custody for the remainder of the baseline term or may order that the ward’s baseline term or previously modified baseline term be modified downward by a reduction of confinement time not to exceed six months for each review hearing. The court may additionally order that the ward be assigned to a less restrictive program, as provided in subdivision (f). The determination of whether the baseline term will be modified, or whether a youth will be assigned to a less restrictive program, is a judicial decision and the juvenile court’s discretion may not be limited by stipulation of the parties at any time.

(B) If the ward is already assigned to a less restrictive program, the court may, based on the ward's progress, order a reduction in the length of time the ward is to remain in the less restrictive program prior to a probation discharge hearing. If the court determines that ward has failed materially to comply with the court-ordered conditions of placement in the less restrictive program, the court may modify the order of placement in the less restrictive program as provided in paragraph (2) of subdivision (f).

(2) The ward's confinement time, including time spent in a less restrictive program described in subdivision (f), shall not be extended beyond the baseline confinement term, or beyond a modified baseline term, for disciplinary infractions or other in-custody behaviors. Any infractions or behaviors shall be addressed by alternative means, which may include a system of graduated sanctions for disciplinary infractions adopted by the operator of a secure youth treatment facility and subject to any relevant state standards or regulations that apply to juvenile facilities generally.

(3) The court shall, at the conclusion of the baseline confinement term, including any modified baseline term, hold a probation discharge hearing for the ward. For a ward who has been placed in a less restrictive program described in subdivision (f), the probation discharge hearing shall occur at the end of the period, or modified period, of placement that has been ordered by the court. At the discharge hearing, the court shall review the ward's progress toward meeting the goals of the individual rehabilitation plan and the recommendations of counsel, the probation department, and any other agencies or individuals having information the court deems necessary. At the conclusion of the hearing, the court shall order that the ward be discharged to a period of probation supervision in the community under conditions approved by the court, unless the court finds that the ward constitutes a substantial risk of imminent harm to others in the community if released from custody. If the court so finds, the ward may be retained in custody in a secure youth treatment facility for up to one additional year of confinement, subject to the review hearing and probation discharge hearing provisions of this subdivision and subject to the maximum confinement provisions of subdivision (c).

(4) If the ward is discharged to probation supervision, the court shall determine the reasonable conditions of probation that are suitable to meet the developmental needs and circumstances of the ward and to facilitate the ward's successful reentry into the community. The court shall periodically review the ward's progress under probation supervision and shall make any additional orders deemed necessary to modify the program of supervision in order to facilitate the provision of services or to otherwise support the ward's successful reentry into the community. If the court finds that the ward has failed materially to comply with the reasonable orders of probation imposed by the court, the court may order that the ward be returned to a juvenile facility or to a placement described in subdivision (f) for a period not to exceed either the remainder of the baseline term, including any court-ordered modifications, or six months, whichever is longer, and in any case not to exceed the maximum confinement limits of subdivision (c).

(f) (1) Upon a motion from the probation department or the ward, the court may order that the ward be transferred from a secure youth treatment facility to less restrictive program, such as a halfway house, a camp or ranch, or a community residential or nonresidential service program. The purpose of a less restrictive program is to facilitate the safe and successful reintegration of the ward into the community. The court shall consider the transfer request at the next scheduled treatment review hearing or at a separately scheduled hearing. The court shall consider the recommendations of the probation department on the proposed change in placement. Approval of the request for a less restrictive program shall be made only upon the court's determination that the ward has made substantial progress toward the goals of the individual rehabilitation plan described in subdivision (d) and that placement is consistent with the goals of youth rehabilitation and community safety. In making its determination, the court shall consider both of the following factors:

(A) The ward's overall progress in relation to the rehabilitation plan during the period of confinement in a secure youth treatment facility.

(B) The programming and community transition services to be provided, or coordinated by the less restrictive program, including, but not limited to, any educational, vocational, counseling, housing, or other services made available through the program.

(2) In any order transferring the ward from a secure youth treatment facility to a less restrictive program, the court may require the ward to observe any conditions of performance or compliance with the program that are reasonable and appropriate in the individual case and that are within the capacity of the ward to perform. The court shall set the length of time the ward is to remain in a less restrictive program, not to exceed the remainder of the baseline or modified baseline term, prior to a probation discharge hearing described in subdivision (e). If, after placement in a less restrictive program, the court determines that the ward has materially failed to comply with the court-ordered conditions of placement in the program, the court may modify the terms and conditions of placement in the program or may order the ward to be returned to a secure youth treatment facility for the remainder of the baseline term, or modified baseline term, and subject to further periodic review hearings, as provided in subdivision (e) and to the maximum confinement provisions of subdivision (c). If the ward is returned to the secure youth treatment facility under the provisions of this paragraph, the ward's baseline or modified baseline term shall be adjusted to include credit for the time served by the ward in the less restrictive program.

(g) A secure youth treatment facility, as described in this section, shall meet the following criteria:

(1) The facility shall be a secure facility that is operated, utilized, or accessed by the county of commitment to provide appropriate programming, treatment, and education for wards having been adjudicated for the offenses specified in subdivision (a).

(2) The facility may be a stand-alone facility, such as a probation camp or other facility operated under contract with the county, or with another

county, or may be a unit or portion of an existing county juvenile facility, including a juvenile hall or probation camp, that is configured and programmed to serve the population described in subdivision (a) and is in compliance with the standards described in paragraph (3).

(3) The Board of State and Community Corrections shall by July 1, 2023, review existing juvenile facility standards and modify or add standards for the establishment, design, security, programming and education, and staffing of any facility that is utilized or accessed by the court as a secure youth treatment facility under the provisions of this section. The standards shall be developed by the board with the coordination and concurrence of the Office of Youth and Community Restoration established by Section 2200. The standards shall specify how the facility may be used to serve or to separate juveniles, other than juveniles described in subdivision (a) serving baseline confinement terms, who may also be detained in or committed to the facility or to some portion of the facility. Pending the final adoption of these modified standards, a secure youth treatment facility shall comply with applicable minimum standards for juvenile facilities in Title 15 and Title 24 of the California Code of Regulations.

(4) A county proposing to establish a secure youth treatment facility for wards described in subdivision (a) shall notify the Board of State and Community Corrections of the operation of the facility and shall submit a description of the facility to the board in a format designated by the board. Commencing July 1, 2022, the Board of State and Community Corrections shall conduct a biennial inspection in accordance with Section 209 of each secure youth treatment facility that was used for the confinement of juveniles placed pursuant to subdivision (a) during the preceding calendar year. To the extent new standards are not yet in place, the board shall utilize the standards in existing regulations.

(5) In lieu of establishing its own secure youth treatment facility, a county may contract with another county having a secure youth treatment facility to accept commitments of wards described in subdivision (a).

(6) A county may establish a secure youth treatment facility to serve as a regional center for commitment of juveniles by one or more other counties on a contract payment basis.

(h) (1) By July 1, 2023, the Judicial Council shall develop and adopt a matrix of offense-based classifications to be applied by the juvenile courts in all counties in setting the baseline confinement terms described in subdivision (b). Each classification level or category shall specify a set of offenses within the level or category that is linked to a standard baseline term of years to be assigned to youth, based on their most serious recent adjudicated offense, who are committed to a secure youth treatment facility as provided in this section. The individual baseline term of years to be assigned in each case may be derived from a standard range of years for each offense level or category as designated by the Judicial Council. The classification matrix may provide for upward or downward deviations from the baseline term and may also provide for a system of positive incentives or credits for time served. In developing the matrix, the Judicial Council

shall be advised by a working group of stakeholders, which shall include representatives from prosecution, defense, probation, behavioral health, youth service providers, youth formerly incarcerated in the Division of Juvenile Justice, and youth advocacy and other stakeholders and organizations having relevant expertise or information on dispositions and sentencing of youth in the juvenile justice system. In the development process, the Judicial Council shall also examine and take into account youth sentencing and length-of-stay guidelines or practices adopted by other states or recommended by organizations, academic institutions, or individuals having expertise or having conducted relevant research on dispositions and sentencing of youth in the juvenile justice system.

(2) Upon final adoption by the Judicial Council, the matrix of offense-based classifications shall be applied in a standardized manner by juvenile courts in each county in cases where the court is required to set a baseline confinement term under subdivision (b) for wards who are committed to a secure youth treatment facility. The discharge consideration date guidelines of the Division of Juvenile Justice that were applied on an interim basis, as provided in subdivision (b), shall not thereafter be utilized to determine baseline confinement terms for wards who are committed to a secure youth treatment facility under the provisions of this section.

(i) A court shall not commit a juvenile to any juvenile facility, including a secure youth treatment facility as defined in this section, for a period that exceeds the middle term of imprisonment that could be imposed upon an adult convicted of the same offense or offenses.

(j) A person who is 25 years of age or older shall not be committed to or detained in a county juvenile facility, unless the court finds that such a commitment or detention is in the best interest of that person and does not find that it would create a risk to the other youth in the juvenile facility. A juvenile court exercising jurisdiction over a person who is 25 years of age or older may order commitment or detention of the person into an adult facility, including a jail or other facility established for the confinement of adults, or into a less restrictive program, as defined in subdivision (f), if the person is otherwise eligible for that program.

(k) Upon return to local custody, a person who was, prior to July 1, 2023, sentenced to state prison and was found to be a ward of the court and committed to the Division of Juvenile Justice, shall not be committed or detained in a juvenile facility, unless the juvenile court with jurisdiction over that person finds it is in the person's best interest and does not find that it would create a risk to the other youth in the juvenile facility. A juvenile court exercising jurisdiction over the commitment or detention of a person described in this subdivision may order the person into an adult facility, including a jail or other facility established for the confinement of adults, a less restrictive program, as defined in section (f), if the person is otherwise eligible for that program, or returned to the Department of Corrections and Rehabilitation pursuant to subdivision (f) of Section 1732.9.

SEC. 31. Section 885 of the Welfare and Institutions Code is amended to read:

885. (a) The Board of State and Community Corrections shall adopt and prescribe the minimum standards of construction, operation, programs of education and training, and qualifications of personnel for juvenile ranches, camps, or forestry camps established under Section 881.

(b) The Board of State and Community Corrections shall conduct a biennial inspection of each juvenile ranch, camp, or forestry camp situated in this state in accordance with Section 209 that, during the preceding calendar year, was used for confinement of any minor for more than 24 hours.

(c) The custodian of each juvenile ranch, camp, or forestry camp shall make any reports that may be required by the board to effectuate the purposes of this section.

SEC. 32. The sum of five hundred and thirty-one thousand dollars (\$531,000) is hereby appropriated from the General Fund to the Department of Justice to establish the Advisory Council on Improving Interactions between People with Intellectual and Development Disabilities and Law Enforcement, pursuant to Section 13016 of the Penal Code.

SEC. 33. The Legislature finds and declares that Section 2 of this act, which adds Section 7923.601 to the Government Code, and Section 3 of this act, which amends Section 832.7 of the Penal Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

To enable the Commission on Peace Officer Standards and Training to focus on the implementation of Senate Bill 2 (Chapter 409 of the Statutes of 2021) and work towards holding peace officers accountable for their misconduct, it is necessary to temporarily exempt the commission from the requirements of the California Public Records Act for records it receives from local law enforcement agencies in conjunction with the requirements of SB 2. These public records would continue to be available to the public from the local agencies that compiled the records.

SEC. 34. The provisions of this bill are severable. If any provision of this bill or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 35. No reimbursement is required by this act pursuant to Section 6 of Article XIIIIB of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIIIIB of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7

(commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 36. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

O