

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee
Hon. Mary Ann Grilli and Hon. Susan D. Huguenor, Co-chairs
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DATE: August 12, 2005

SUBJECT: Juvenile Law: Technical Changes Related to California Department of Corrections and Rehabilitation (amend Cal. Rules of Court, rules 4.300, 4.453, 1475, 1493, 1494.5, 1495, 1496.3; revise forms JV-060, JV-732, JV-750, JV-751) (Action Required)

Issue Statement

As of July 1, 2005, the new Department of Corrections and Rehabilitation assumed responsibility for functions previously administered by the California Youth and Adult Correctional Agency as well as the departments under its jurisdiction, including the California Youth Authority and Department of Corrections. Numerous references on juvenile rules and forms need to be revised to accurately reflect this change.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2006: amend rules 4.300, 4.453, 1475, 1493, 1494.5, 1495, and 1496.3; and revise forms JV-060, JV-732, JV-750, and JV-751 to comply with recent statutory changes that reorganized state-based departments administering secure detention facilities. In both the rules and the forms we would (1) replace references to the “California Youth Authority” with the “Department of Corrections and Rehabilitation, Division of Juvenile Justice” and (2) replace references to the “Department of Corrections” with “Department of Corrections and Rehabilitation, Division of Adult Operations.”

The text of the amended rules is attached at pages 3–6. The revised forms are attached at pages 7–18.

Rationale for Recommendation

Senate Bill 737 (Stats. 2005, ch. 10 (Romero)), as of July 1, 2005, abolished the Youth and Adult Correctional Agency, which consisted of, in part, the Department of Corrections and the Department of the Youth Authority, and created the Department of Corrections and Rehabilitation, which consists of, in part, the Division of Adult Operations and the Division of Juvenile Justice. These statutory changes necessitate making technical changes to these rules and forms.

The committee recommends the following changes to the juvenile law rules and forms to accurately represent the newly formed California Department of Corrections and Rehabilitation and its divisions. The juvenile law rules and forms refer to this agency and these departments most often through reference to the (1) California Youth Authority, (2) CYA, or (3) Department of Corrections. In their place, SB 737 created the Department of Corrections and Rehabilitation, which consists of, in part, the Division of Adult Operations and the Division of Juvenile Justice. The committee recommends replacing references to the “California Department of Corrections” with “California Department of Corrections and Rehabilitation, Division of Adult Operations,” and recommends replacing references to the “California Youth Authority” with “California Department of Corrections and Rehabilitation, Division of Juvenile Justice.” These technical changes to the juvenile law and forms are necessary to maintain consistency and accuracy with the California statutes.

Alternative Actions Considered

The proposed amendments and revisions are necessary to bring the rules and forms into compliance with governing law. No alternative actions were considered.

Comments From Interested Parties

The invitation to comment on the proposal was not circulated for comment. SB 737 was filed with the Secretary of State on May 10, 2005, and became effective July 1, 2005. Therefore, it was not possible to circulate these changes for comment during the invitation to comment period.

Implementation Requirements and Costs

Implementation of the rule and form changes will incur standard reproduction costs.

Attachments

Rules 4.300, 4.453, 1475, 1493, 1494.5, 1495, and 1496.3 of the California Rules of Court are amended effective January 1, 2006, to read:

1 **Rule 4.300. Commitments to nonpenal institutions**

2
3 When a defendant is convicted of a crime for which sentence could be
4 imposed under section 1170 and the court orders that he or she be committed
5 to the California ~~Youth Authority~~ Department of Corrections and
6 Rehabilitation, Division of Juvenile Justice ~~pursuant to~~ under Welfare and
7 Institutions Code section 1731.5, the order of commitment ~~shall~~ must specify
8 the term of imprisonment to which the defendant would have been sentenced.
9 The term ~~shall be~~ is determined as provided by sections 1170 and 1170.1 and
10 these rules, as though a sentence of imprisonment were to be imposed.

11
12 **Rule 4.453. Commitments to nonpenal institutions**

13
14 When a defendant is convicted of a crime for which sentence could be
15 imposed under section 1170 and the court orders that he or she be committed
16 to the California ~~Youth Authority~~ Department of Corrections and
17 Rehabilitation, Division of Juvenile Justice ~~pursuant to~~ under Welfare and
18 Institutions Code section 1731.5, the order of commitment ~~shall~~ must specify
19 the term of imprisonment to which the defendant would have been sentenced.
20 The term ~~shall be~~ is determined as provided by sections 1170 and 1170.1 and
21 these rules, as though a sentence of imprisonment were to be imposed.

22
23 **Rule 1475. Detention report; grounds; determinations; findings; orders;**
24 **factors to consider for detention; restraining orders**

25
26 (a)–(f) ***

27
28 (g) **Factors—escape from commitment**

29
30 Regarding ground for detention (b)(2), the court must consider whether
31 or not the child:

- 32
33 (1) Was committed to the California ~~Youth Authority~~ Department of
34 Corrections and Rehabilitation, Division of Juvenile Justice; a
35 county juvenile home; ranch; camp; forestry camp; or juvenile
36 hall; and
37 (2) Escaped from the facility or the lawful custody of any officer or
38 person in which the child was placed during commitment.

39
40 (h)–(k) ***

1 **Rule 1493. Orders of the court**

2
3 (a)–(e) ***

4
5 (f) **Youth Authority California Department of Corrections and**
6 **Rehabilitation, Division of Juvenile Justice**

7
8 If, at the time of the disposition hearing, the child is a ward of the ~~Youth~~
9 ~~Authority~~ California Department of Corrections and Rehabilitation,
10 Division of Juvenile Justice (DJJ) under a prior commitment, the court
11 may either recommit or return the child to the ~~Youth Authority~~ DJJ. If
12 the child is returned to the ~~Youth Authority~~ DJJ, the court may:

- 13
14 (1) Recommend that the ward’s parole status be revoked;
15
16 (2) Recommend that the ward’s parole status not be revoked; or
17
18 (3) Make no recommendation regarding revocation of parole.

19
20 (g) ***

21
22 **Rule 1494.5. Youth Authority California Department of Corrections and**
23 **Rehabilitation, Division of Juvenile Justice commitments**

24
25 If the court orders the youth committed to the California ~~Youth Authority~~
26 Department of Corrections and Rehabilitation, Division of Juvenile Justice
27 (DJJ):

- 28
29 (a) The court must complete ~~Judicial Council form JV-732, Commitment to~~
30 ~~the California Youth Authority Department of Corrections and~~
31 ~~Rehabilitation, Division of Juvenile Justice~~ (form JV-732).
32
33 (b) The court must specify whether the offense is one listed in section
34 707(b) of the Welfare and Institutions Code.
35
36 (c) The court must order ~~that~~ the probation department to forwards to the
37 ~~Youth Authority~~ DJJ all required medical information, including
38 previously executed medical releases.
39
40 (d) If the youth is taking a prescribed psychotropic medication, the ~~Youth~~
41 ~~Authority~~ DJJ may continue to administer the medication for up to 60
42 days, provided that the youth is examined by a physician ~~upon~~ on arrival

1 at the facility, and the physician recommends that the medication
2 continue.

- 3
4 (e) The court must provide to the ~~Youth Authority~~ DJJ information
5 regarding the youth’s educational needs, including the youth’s current
6 individualized education program if one exists. To facilitate this
7 process, the court must ensure that the probation officer communicates
8 with appropriate educational staff.
9

10 **Rule 1495. Deferred entry of judgment**

11
12 **(a) Eligibility (§ 790)**

13
14 A child 14 years or older who is the subject of a petition under section
15 602 alleging violation of at least one felony offense may be considered
16 for a deferred entry of judgment if all of the following apply:

- 17
18 (1) The child is 14 years or older at the time of the hearing on the
19 application for deferred entry of judgment;
20
21 (2) The offense alleged is not listed in section 707(b);
22
23 (3) The child has not been previously declared a ward of the court
24 based on the commission of a felony offense;
25
26 (4) The child has not been previously committed to the California
27 ~~Youth Authority~~ Department of Corrections and Rehabilitation,
28 Division of Juvenile Justice;
29
30 (5) If the child is presently or was previously a ward of the court,
31 probation has not been revoked ~~prior to~~ before completion; and
32
33 (6) The child meets the eligibility standards ~~set forth~~ stated in Penal
34 Code section 1203.06.

35
36 **(b)–(h) *****

1 **Rule 1496.3. Termination of parental rights for child in foster care for 15 of**
2 **the last 22 months**

3
4 (a) ***

5
6 (b) **Calculating time in foster care (§ 727.32(b))**

7
8 The following guidelines must be used to determine if the child has
9 been in foster care for 15 of the most recent 22 months:

- 10
11 (1) Determine the date the child entered foster care, as defined in
12 rule 1401(a)(7). In some cases, this will be the date the child
13 entered foster care as a dependent.
14
15 (2) Calculate the total number of months since the date in (1) that the
16 child has spent in foster care. Do not start over if a new petition
17 is filed or for any other reason.
18
19 (3) If the child is in foster care for a portion of a month, calculate the
20 total number of days in foster care during that month. Add one
21 month to the total number of months for every 30 days the child
22 is in foster care.
23
24 (4) Exclude time during which the child was detained in the home of
25 a parent or guardian; the child was living at home on formal or
26 informal probation, at home on a trial home visit, or at home with
27 no probationary status; the child was a runaway or “absent
28 without leave” (AWOL); or the child was out of home in a non-
29 foster care setting, including juvenile hall; ~~California Youth~~
30 Authority Department of Corrections and Rehabilitation,
31 Division of Juvenile Justice; a ranch; a camp; a school; or any
32 other locked facility.
33
34 (5) Once the total number of months in foster care has been
35 calculated, determine how many of those months occurred within
36 the most recent 22 months. If that number is 15 or more, the
37 requirement in (a) applies.
38
39 (6) If the requirement in (a) has been satisfied once, there is no need
40 to take additional action or provide additional documentation
41 after any subsequent 22-month period.

27. What should I do as a parent?

All your parental responsibilities continue when your child receives a citation. You may want to contact a lawyer for assistance.

If your child is placed in a group home or committed to a probation camp or the Division of Juvenile Justice, do your best to maintain contact with your child and support the positive activities he or she does there. Understand what is happening in your child's life so that you can prepare for his or her return. Explore ways of creating a protective and supportive environment for your child's return to school or work. Develop strategies to hold your child accountable for his or her behavior.

Contact your child's parole agent or probation officer to ask for referrals to community organizations that can assist you, such as parent groups or counseling. Your school district and local hospital or mental health department may also offer programs.

_____ County
JUVENILE COURT
INFORMATION FOR PARENTS

The purposes of the delinquency court are: to protect, to give guidance, to punish children who commit delinquent acts, and to protect the community.

If your child becomes a ward of the court as a juvenile delinquent, the court will make orders for you and your child so that your child and the community will be protected.

As a ward of the delinquency court:

1. Your child may be allowed to live in your home under court supervision; or
2. Your child may be placed outside of your home in an unlocked or locked facility, depending upon your child's age, the seriousness of the offense, and your child's history of delinquency.

The petition and other papers you may have received say your child is accused of having done certain delinquent acts. The petition does not prove anything, but it is important for you to know what your child is accused of having done. You have the right to receive a copy of the petition.

PLEASE READ THE PETITION CAREFULLY.

1. My child came home after being arrested. What will happen now?

Your county's probation department will probably get in touch with you and ask your child to come in for a meeting with a probation officer.

You will receive a Notice to Appear (a specific date and time you must show up at the probation department).

In very serious cases, your child may receive a Notice to Appear directly in juvenile court.

2. My child was arrested and taken into custody. What can the arresting officer do?

The officer may do one of five things:

- a. Let your child go home to you or accompany him or her home or back to the place of arrest, and maintain a record of the contact.
- b. Refer your child to a community agency providing shelter, care, diversion, or counseling.
- c. In some counties, require your child to return to the police station rather than to the probation department (this is sometimes referred to as "cited back").
- d. Give you and your child a Notice to Appear, telling you what you and your child must do and when you must do it.
- e. Shortly after the arrest, lock up your child in the probation juvenile hall (this is called "detention"). If your child is locked up or held by the officer, your child has the right to make at least two phone calls no later than one hour after arrest. One of the phone calls must be a completed call to a parent, guardian, responsible relative, or employer. The other call must be a completed call to an attorney. If the officer is going to question your child about what happened, the officer must also tell your child that he or she has the right to remain silent, that anything your child says will be used against him or her, that he or she has a right to be represented by a lawyer, and that the court will appoint a lawyer if your child cannot afford one. These are called *Miranda* rights. If the officer is not going to question your child, the officer will not necessarily explain these rights.

24. Will I be required to pay my child's fees?

Yes. Unless you have been the victim of your child's crime, you will receive a bill from the county for your child's attorney's fees. You will be billed for probation department services fees (such as food and laundry while your child was in juvenile hall), and placement costs for keeping your child in a state placement such as the Division of Juvenile Justice, a probation camp, or an out-of-home placement. These costs can be expensive. You will have a chance to show how much, if any, of these costs you are able to pay. The Juvenile Court does not make this determination.

25. Can my child's juvenile records be sealed?

This is very important for your child, but will not happen automatically, and not all records may be sealed including some Department of Motor Vehicle convictions. Your child must file a petition to request this.

Your child can file a petition after he or she turns 18. Your child can also file a petition 5 years (in some cases, 6 years) after everything connected with his or her case is over. The probation department will make sure that your child was not involved in any later crime. If the petition to seal the records is granted by the court, all records of the case and the arrest will be ordered sealed.

Ask your child's attorney or probation officer for help.

26. Can my child's juvenile court record be used against him or her as an adult?

Under the three-strikes law, certain serious or violent felonies committed as a juvenile can be counted as strikes and used against your child in the future. This can happen even if the Juvenile Court record has been sealed.

You may visit your child during visiting hours, which are on Saturdays or Sundays for 2 to 3 hours at a time, depending on the reception center. The Ventura reception center for girls allows visits for up to 6½ hours at a time. You may not call your child at the reception center, but you may write to your child. Your child may make collect calls to you from a pay phone.

22. When would my child go to the Division of Adult Operations instead of the Division of Juvenile Justice (DJJ)?

Your child can be sentenced to adult prison (California Department of Corrections and Rehabilitation, Division of Adult Operations) if he or she is tried as an adult (see questions 19 and 20). If your child will be tried as an adult, it is extremely important to talk to your child's attorney about all of the very serious consequences of your child's situation.

Between the ages of 14 and 16, your child must stay at DJJ even if he or she is sentenced to adult prison.

If your child is at least 16 years old and is tried in adult court, the judge can order your child to serve time in adult prison rather than at DJJ.

If your child is at least 16, he or she may serve the entire term at DJJ only if the term will end before he or she reaches age 21. If your child's term will last past age 21, then your child could be at DJJ until age 18, and then would automatically be transferred to the Division of Adult Operations on his or her 18th birthday. The court could also order your child directly to the Division of Adult Operations at age 16.

23. Am I financially liable for my child's acts?

Yes. You may also have to pay restitution to the victim if your child is ordered to pay. Restitution is money to pay for the victim's losses caused by your child's illegal conduct. Examples of restitution might include the value of stolen or damaged property, medical expenses, and lost wages.

If your child is locked up or held somewhere, the officer must take immediate steps to notify you that your child is in custody and where your child is being held. When you are notified, the officer must also tell you about each of the *Miranda* rights that your child has.

3. If we get a Notice to Appear, what will happen at the meeting with the probation officer? What should I do?

If your child doesn't already have a lawyer, you may wish to contact the public defender or a private attorney for advice.

One of three things may happen at the meeting:

- a. The probation officer can reprimand your child and then let your child go home without getting the juvenile court involved.
- b. The probation officer may offer your child a voluntary program instead of going to court. Each county is different and programs vary, but generally if your son or daughter successfully completes the program (for example, attending special classes or substance abuse counseling, performing community service, cleaning graffiti, or going to a youth or peer court if your county has one), the juvenile court does not need to become involved. If you and your child agree to a voluntary program, the probation department may ask you to sign an informal contract describing what you and your child must do. It can last up to six months.
- c. The probation officer can refer your child's case to the district attorney, who will decide whether or not to file a petition.

4. Do I need a lawyer for myself?

No, not usually. If your child has a lawyer, the lawyer represents your child and not you.

5. Does my child need a lawyer?

Yes, and your child has a right to a lawyer who is both effective and prepared.

If you cannot afford to hire a lawyer for your child, the court will appoint a lawyer to represent your child.

6. My child's probation officer told me that the district attorney will be filing a petition. What does that mean?

A petition asks the court to become involved in your child's life. The petition says what the state believes your child did. Later, a judge will decide if what the petition says is true.

There are two types of petitions. They are named after numbered sections of California law:

- a. **601 Petition.** A 601 Petition is filed by the probation department and says that a child has run away, skipped school, violated curfew, or regularly disobeyed his or her parents. If the court finds that the petition is true, the youth may become a "ward" of the court and is known as a "status offender."
- b. **602 Petition.** A 602 Petition is filed by the district attorney's office and says that a child has committed an act that would be considered against the law if an adult had done it. If the court finds the facts stated in the petition to be true, the child becomes a "ward" of the court as a delinquent.

Section 602 covers any act that is against the law when an adult does it. This includes felonies such as auto theft, burglary, selling a controlled substance (drugs), rape, and murder, and misdemeanors such as simple assault and drunk driving.

The penalty for the offense depends on the type of offense.

7. What will happen if my child is taken to juvenile hall after the arrest?

It is up to the probation officer whether or not to keep your child in custody. The probation officer may let your child go home without asking the district attorney to file a petition. The probation officer may allow your child to go home and still refer the case to the district attorney, who will decide whether or not to file a petition. There may be restrictions placed on your child as a condition of being allowed to go home.

18. May the victim attend and speak at the disposition hearing?

Yes. A crime victim's bill of rights allows the victim to come to the hearing. The victim, and his or her parents if the victim is a child, will get notice of the hearing.

19. When can my child be tried as an adult?

For some felonies, your child can be tried and sentenced as an adult if your child is at least 14 years old. The case would be moved to adult court. There are major differences between juvenile and adult criminal court procedures and philosophies. If the district attorney requests that your child be tried as an adult, it is extremely important to talk to your child's attorney about all of the very serious consequences of your child's situation.

20. What felonies are likely to be tried in adult court?

A child can be tried in adult court for a wide range of offenses. These are violent and serious offenses, including murder and attempted murder, arson of an inhabited building, robbery with a dangerous or deadly weapon, some forms of rape, some forms of kidnapping and carjacking, some felonies involving firearms, certain controlled substance offenses, and certain violent escapes from a juvenile detention facility.

21. Where will my child go if he or she is sent to the Division of Juvenile Justice (DJJ)?

Your child will first go to a reception center for 30 to 90 days. After that, your child will be sent to one of nine correctional facilities or one of four youth camps. These are the three reception centers where staff will assess your child's education and treatment needs:

- a. The Northern Youth Correctional Reception Center and Clinic
Preston Youth Correctional Facility and Reception Center and
Clinic in Lone (209-274-8000)
- b. The Southern Youth Correctional Reception Center and Clinic in
Norwalk (562-868-9979)
- c. The Ventura Youth Correctional Facility (for girls)
(805-485-7951)

- c. Your child may be placed on probation and ordered to live in a relative's home, a private residential group home, or an institutional program.
- d. Your child may be placed on probation and sent to a probation camp or ranch.
- e. Your child may be committed to the California Department of Corrections and Rehabilitation, Division of Juvenile Justice (DJJ). (But if your child is tried as an adult, the adult criminal court could sentence your child to the California Department of Corrections and Rehabilitation, Division of Adult Operations (see questions 19 and 20).
- f. As a parent, you may be ordered to comply with conditions such as counseling or parent training.

15. May I be present at the hearings?

Yes. In fact, state law requires you to be present. One thing the judge will decide is what will be best for your child. Depending on the offense, if you can show that your child will listen to you and follow your rules, and that you will hold your child accountable and be supportive at home, the judge may order that your child be released to your custody.

16. May I speak at the hearings?

You may speak if the judge asks you questions directly, or if you are called as a witness. You may ask to speak to the judge. Generally, your child's lawyer will speak for your child. The district attorney will speak for the state. The probation department may be called as a witness.

17. Do we have the right to an interpreter?

Your child has a constitutional right to an interpreter. You may also have a right to an interpreter and should ask for one if you need one.

If the probation officer keeps your child locked up, the law requires that a petition be filed very quickly, usually within 48 hours from the time the child is taken into custody by the police. Then there must be a detention hearing the next day that the court is in session. The courts are closed on Saturdays, Sundays, and holidays.

8. How long could my child have to stay in juvenile hall?

At the detention hearing, the judge could decide your child must be kept in juvenile hall until the next hearing. The different hearings are described in question 12. The judge may continue to order your child to remain in juvenile hall until the case is finished.

9. Can I visit my child in juvenile hall?

Usually, but you should contact the probation officer to find out when you can see your child.

10. What is the role of the probation officer?

The probation officer is responsible for writing a report to the juvenile court judge about your child. The report tells the judge what the probation department thinks would be best for your child if the judge finds that your child committed the crime. The report also includes your child's prior arrest record; a description of the current offense; statements from your child, his or her family, and other people who know your child well; a school report; and a statement by the victim. The probation officer presents this report at the disposition hearing.

If your child is placed on probation, the probation officer will enforce the court's orders. This means monitoring your child to make sure he or she obeys the law and follows the terms of probation. The probation officer will also encourage your child's positive involvement in school and participation in job training, counseling, and community programs. Depending on the situation, the probation officer could meet with your child as often as twice a week or as little as once a month.

If your child is in custody, and the judge decides your child should not go home right after the case is finished, the probation officer's job is to find an appropriate placement for your child. This could be with a relative, in a county-based foster or group home, or in a private institution.

11. How will my child and I find out about the court hearings?

If your child is locked up you should get the petition and notice of the hearing, personally or by mail, as soon as possible after the petition is filed and at least 5 days before the hearing. If the hearing is less than 5 days after the petition is filed, you will get notice at least 24 hours before the hearing. Your child has the right to get notice if he or she is at least 8 years old.

If your child is not in custody, you should get notice of the petition and hearing personally or by first-class mail at least 10 calendar days before the hearing.

12. What hearings will my child go to in juvenile court?

There are several types of hearings:

- a. **The Detention Hearing.** If your child is locked up in juvenile hall for more than 48 hours, there will be a detention hearing after no more than 72 hours, counting only court business days (no Saturdays, Sundays, or holidays). At the detention hearing, the judge will decide whether or not to let your child go home before the next hearing.
- b. **The Pretrial or Settlement Conference.** In many counties, a court appearance is scheduled to try to resolve the matter without a trial.
- c. **Hearings on Motions.** There may be court appearances for the court to hear additional matters that come up before the matter is resolved.
- d. **The Fitness or Waiver Hearing.** If your child is at least 14 years old, the district attorney may ask that your child be tried in adult court. At the fitness hearing the judge will decide whether your child will be tried in adult court or in juvenile court. If your child is ruled "unfit" for juvenile court, he or she will be tried in adult court. If your child is younger than 14, there will be no fitness hearing.
- e. **The Jurisdiction Hearing.** At the jurisdictional hearing, the judge will decide whether or not your child committed the offense.

- f. **The Disposition Hearing.** If the judge rules that your child committed the offense, then at the disposition hearing the judge will decide what orders should be made about your child. If the judge rules that your child did not commit the offense, there is no disposition hearing. Sometimes the disposition hearing is held right after the jurisdiction hearing, on the same day.
- g. **Review Hearings.** In some cases, the law or the court may set hearings to review your child's progress and performance under probation supervision.

13. What will happen at the jurisdiction hearing?

In many cases, the child will admit all or part of the petition.

Your child's attorney will advise your child as to whether or not to make an admission.

If there is a contested hearing, or "trial," the district attorney will present the case against your child. Then your child's attorney will present your child's defense. Based on this evidence, the judge will decide whether or not your child has committed the acts he or she is accused of. If the judge makes a "true finding," this means that there is enough evidence for the judge to find beyond a reasonable doubt that your child did commit the acts.

After a "true finding," the judge schedules a disposition hearing to decide what the consequences will be.

If there is not enough evidence for the judge to find that your child committed the act he or she is accused of, the case will be dismissed. If your child is in custody, he or she will be released.

14. What will happen at the disposition hearing?

The judge will decide one of six things:

- a. Your child may remain at home on probation supervision for up to 6 months.
- b. Your child may be ordered home under the formal supervision of a probation officer. Formal supervision is set up by the judge.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO. (Optional): _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY Draft 4 09/19/05 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
YOUTH'S NAME: PARENT'S NAME:	
COMMITMENT TO THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, DIVISION OF JUVENILE JUSTICE	CASE NUMBER: JUVENILE:

1. a. Youth's name:
 b. Youth's date of birth:
2. a. Date of hearing: _____ Dept.: _____ Room: _____
 b. Judicial officer (name): _____
 c. Persons present:
 Youth Youth's attorney Mother Father Guardian Deputy District Attorney
 Others as reflected on the attached minute order.

THE COURT FINDS AND ORDERS:

3. The youth was under the age of 18 years at the time of the commission of the offense for which the youth is being committed to the Division of Juvenile Justice.
4. The mental and physical condition and qualifications of this youth render it probable that the youth will benefit from the reformatory discipline or other treatment provided by the Division of Juvenile Justice.
5. a. The youth is committed to the Division of Juvenile Justice for a 90-day period of observation and diagnosis.
 b. The youth is committed to the Division of Juvenile Justice for acceptance.
 c. The youth is a ward of the Division of Juvenile Justice under a prior commitment; and
 is recommitted to the Division of Juvenile Justice; or
 is returned to the Division of Juvenile Justice with the following recommendation:
 the parole status of the youth be revoked;
 the parole status of the youth not be revoked; or
 the parole status of the youth will be determined by the Division of Juvenile Justice.
6. The youth has been declared a ward of the court and is committed based on the following sustained petitions:

<u>Sustained</u>	<u>Petition Date</u>	<u>Offense</u>	<u>Code</u>	<u>Degree</u>	<u>707(b)</u>	<u>Enhancement</u>	<u>Term</u>
a.							
b.							

YOUTH'S NAME: 	CASE NUMBER: JUVENILE:
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Sustained
Petition Date Offense Code Degree 707(b) Enhancement Term

6. c.

d.

e.

Continued in Attachment 6.

7. The youth has credit for _____ days in secure custody.

8. The maximum period of confinement is (state years and months):

9. The youth is ordered to pay a restitution fine of (state dollar amount): \$

10. The youth is ordered to pay victim restitution as stated in Attachment 10.

11. Exceptional needs:

a. The youth is an individual with exceptional needs.

b. Educational records do not indicate that a determination has been made regarding any exceptional needs the youth may have.

c. The youth has an individualized education program and it:

is included as Attachment 11c.

will be furnished to the Division of Juvenile Justice when obtained.

12. The court requests that the youth be considered for the _____ Program.

13. The court requests that a copy of the Clinical Summary Report be sent to the youth's attorney (provide name and address of attorney):

14. The Probation Officer is directed to forward a copy of the youth's medical records to the Division of Juvenile Justice before delivery.

YOUTH'S NAME: 	CASE NUMBER: JUVENILE:
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15. Youth has has not been prescribed psychotropic medication.
Type and dosage of medication (*specify*):

Additional documentation provided in Attachment 15.

16. Such psychotropic medication, if still necessary based on an evaluation by a Division of Juvenile Justice physician, may be continued for a period not to exceed 60 days from the date of delivery to the Division of Juvenile Justice reception center and clinic.

Date:

JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO. <i>(Optional):</i> _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY Draft 3 09/19/05 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
DETERMINATION OF ELIGIBILITY Deferred Entry of Judgment—Juvenile	CASE NUMBER:

1. The undersigned, *(name):* _____, Deputy District Attorney, has reviewed the records, police reports, and other materials submitted regarding the above-referenced youth and has determined the following *(check all applicable boxes):*

- a. The youth will be 14 years or older at the time of the hearing on the deferred entry of judgment.
- b. The youth is alleged to have committed at least one felony offense.
- c. There is no allegation that the youth committed an offense described in Welfare and Institutions Code section 707(b).
- d. The youth has not previously been declared a ward of the court based on a finding that the minor committed a felony.
- e. The youth has never been committed to the California Department of Corrections and Rehabilitation, Division of Juvenile Justice.
- f. The youth's records indicate the following:
 - (1) The youth has never been on formal or informal probation.
 - (2) The youth is presently on formal informal probation.
 - (3) The youth successfully completed a previous formal informal probation program.
 - (4) The youth's probation has never been revoked.
- g. The youth is eligible for probation under Penal Code section 1203.06.

- 2. a. The youth is eligible
- b. The youth is ineligible
- 3. **Citation and Written Notification for Deferred Entry of Judgment—Juvenile** (form JV-751), is attached.

Date:

 (TYPE OR PRINT NAME)

▶

 (SIGNATURE OF DEPUTY DISTRICT ATTORNEY)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr style="width: 20px; margin-left: 0;"/> TELEPHONE NO. <i>(Optional):</i> _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY Draft 4 09/19/05 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	CASE NUMBER:
CITATION AND WRITTEN NOTIFICATION FOR DEFERRED ENTRY OF JUDGMENT—JUVENILE <input type="checkbox"/> Notice of Hearing	

CITATION

TO *(Name of youth):*

(Name of custodial parent, guardian, or caregiver):

(Address):

1. The District Attorney has determined that this youth is eligible to be considered by the Juvenile Court for a Deferred Entry of Judgment on the offense or offenses alleged in the petition filed *(date)*:

2. YOU ARE ORDERED TO APPEAR AT A HEARING

on <i>(date)</i> :	at <i>(time)</i> :	in Dept.:	Room:
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located at: courthouse address above other *(specify address):*

At the hearing the court will consider whether or not to grant a Deferred Entry of Judgment.

<p>NOTICE</p> <p>To Parent and Others Legally Responsible for the Care and Support of the Youth</p> <p>1. If the court grants a DEFERRED ENTRY OF JUDGMENT, you may be required to participate in a counseling or education program with the youth.</p> <p>2. No judicial officer may hear a case when it is shown that the judicial officer is prejudiced against any party or attorney or the interest of any party or attorney appearing in the case. California Code of Civil Procedure section 170.6 describes the bases and procedures for a claim of such prejudice.</p>

YOUTH'S NAME: —	CASE NUMBER:
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WRITTEN NOTIFICATION

3. A DEFERRED ENTRY OF JUDGMENT will mean that the youth will be on probation for a specific length of time (between 12 and 36 months). Upon successful completion of probation:
 - a. The petition that has been filed will be dismissed.
 - b. The arrest for the offenses will be considered to NEVER have occurred.
 - c. All records in the court, probation department, and law enforcement agencies regarding the petition will be sealed, although the District Attorney and the probation department shall have access for the limited purpose of determining future eligibility for deferred entry of judgment.
4. If the youth, the youth's attorney, the District Attorney, and the court agree that a DEFERRED ENTRY OF JUDGMENT should be granted, in lieu of normal court proceedings the youth will be required to do all of the following:
 - a. To admit that the youth committed the offense or offenses alleged to have been committed. The District Attorney may require an admission to all offenses charged.
 - b. To agree to postpone the final determination of the case.
 - c. To satisfactorily complete a program of probation.
 - d. To obey all laws, follow all of the orders of the court, and the directions of the probation officer.
5. At the hearing, the court will consider the information provided by the District Attorney, any report by a probation officer, and other evidence presented. The youth or the youth's attorney may submit written or oral evidence or statements.
6. If the court grants a DEFERRED ENTRY OF JUDGMENT, certain conditions of probation will be imposed, including:
 - a. A curfew.
 - b. Regular attendance at school or an education or training program, or employment.
 - c. Submission to search of the youth's person, residence, and property under the youth's control without a warrant, by a police or probation officer.
7. The court may impose other conditions of probation, such as:
 - a. Prohibiting the consumption or possession of alcoholic beverages, controlled substances, and tobacco, and requiring submission to chemical tests to determine the use of any of these items.
 - b. Restitution to a victim.
 - c. Any other orders the court finds would assist the youth and protect the community, including orders for the parent, guardian, or caregiver of the youth to participate in a counseling or education program.
 - d. Counseling or treatment that the court finds will benefit the youth.
8. IF AT ANY TIME DURING THE PERIOD OF PROBATION
 - a. the youth is found to have committed a felony,
 - b. the youth is found to have committed misdemeanor offenses on more than one occasion, or
 - c. the District Attorney or the Probation Officer notifies the court that the youth is not complying with the conditions of probation, or the orders are not benefiting the youth,

the court will lift the Deferred Entry of Judgment and set a hearing to conclude the case, with consideration of all possible consequences under the law, including commitment to the California Department of Corrections and Rehabilitation, Division of Juvenile Justice.
9. IF AT ANY TIME DURING THE PERIOD OF PROBATION the youth is found to have committed one misdemeanor or more on only one occasion, the court may set a hearing to determine if the Deferred Entry of Judgment should be lifted and other orders, including punishment, should be made, or if the Deferred Entry of Judgment should be continued with additional or different conditions of probation. If the court terminates the Deferred Entry of Judgment, the court will then conclude the case, with consideration of all possible consequences, including commitment to the California Department of Corrections and Rehabilitation, Division of Juvenile Justice.
10. If the youth commits two or more felonies after the deferred entry of judgment is granted, these could be the basis for a finding by a court that the youth is not a fit subject for treatment under juvenile court laws and should be prosecuted as an adult.
11. During this proceeding, the youth will be represented by an attorney acting on his or her behalf. The district attorney will act for the state, prosecuting the case. The probation department will supervise the youth during the period of the deferred entry of judgment. The court's role is to ensure that the procedures are properly followed.

Senate Bill No. 737

CHAPTER 10

An act to amend Section 11552 of, to add Article 14 (commencing with Section 12838) to Chapter 1 of Part 2.5 of Division 3 of Title 2 of, and to repeal Sections 11560, 11563.1, 12811, and 12811.1 of, the Government Code, and to amend Sections 2800, 2802, 2803, 2804, 2806, 2807, 2808, 2809, 2810, 2810.5, 2811, 2815, 2816, 3041, 3041.1, 5000, 5001, 5003.5, 5050, 5052, 5054, 5055, 5057, 5075, 5076.1, 6024, 6025, 6026, 6030, 6050, 7518, 13600, 13601, 13602, 13603, 13810, and 14204 of, to amend the headings of Chapter 1 (commencing with Section 5000), Chapter 2 (commencing with Section 5050), Chapter 3 (commencing with Section 5075), Chapter 4 (commencing with Section 6001), and Chapter 5 (commencing with Section 6024) of Title 7 of Part 3 of, and to amend the heading of Title 4.5 (commencing with Section 13600) of Part 4, of, and to add Sections 5075.1, 5075.6, and 6126.6 to, and to repeal Sections 2036, 2038, 2043.3, 2045.3, 2046.3, 2048.3, 2048.7, 2079, 5051, 5051.5, 5053, 5067, 5082, 6001, 6003, and 6004 of, and to repeal Article 3 (commencing with Section 2400) of Chapter 2 of Title 1 of Part 3 of, the Penal Code, and to amend Sections 1000, 1703, 1710, 1711, 1712, 1713, 1714, 1716, 1719, 1720, 1723, 1725, 1766, 1798, 3150, 3151, 3158, 3300, and 3309 of, and to repeal Sections 1717, 1718, 1721, 1722, and 3157 of, and to repeal and add Section 1798.5 the Welfare and Institutions Code, relating to reorganizing the Youth and Adult Correctional Agency, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 10, 2005. Filed with
Secretary of State May 10, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 737, Romero. Corrections.

Existing law establishes the Youth and Adult Correctional Agency, which consists of the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Board of Corrections, the Youth Authority Board, and the Narcotic Addict Evaluation Authority.

This bill would abolish those departments and boards, and instead create the Department of Corrections and Rehabilitation, which would consist of the Division of Adult Operations, the Division of Adult Programs, the Division of Juvenile Justice, the Corrections Standards Authority, the Board of Parole Hearings, the State Commission on Juvenile Justice, the Prison Industry Authority, and the Prison Industry Board. The department would be headed by the Secretary of the Department of Corrections and Rehabilitation, who would be appointed by, and hold office at the pleasure of, the Governor, subject to confirmation by the Senate. The bill would authorize the Governor to appoint, an undersecretary, and would require

the Governor to appoint 3 chief deputy secretaries, and an assistant secretary for health care policy, all subject to Senate confirmation. It would also authorize the Governor to appoint assistant secretaries for victim and survivor rights and services and for correctional safety.

The bill would create the Division of Adult Institutions and the Division of Adult Parole Operations under the Chief Deputy Secretary for Adult Operations. Each division would be headed by a division chief, appointed by the Governor, and subject to Senate confirmation. The bill would require the Governor to appoint 5 subordinate officers to the chief of the Division of Adult Institutions, subject to Senate confirmation, to head identified areas of adult institutions.

The bill would create the Division of Community Partnerships, the Division of Education, Vocations, and Offender Programs, and the Division of Correctional Health Care Services under the Chief Deputy for Adult Programs, each to be headed by a chief who is appointed by the Governor and subject to Senate confirmation.

The bill would create the Division of Juvenile Facilities, the Division of Juvenile Programs, and the Division of Juvenile Parole Operations under the Chief Deputy of Juvenile Justice, each to be headed by a chief who is appointed by the Governor and subject to Senate confirmation.

The bill would authorize the Governor to request the State Personnel Board to use extensive recruitment and merit selection techniques and procedures to provide lists of persons qualified for appointment to all of the above positions.

The bill would vest the new department with all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the Youth and Adult Correctional Agency, the Department of Corrections, the Department of the Youth Authority, the Commission on Correctional Peace Officer Standards and Training, the Board of Corrections, and the State Commission on Juvenile Justice, Crime and Delinquency Prevention. The bill would maintain the existing functions, powers, responsibilities, and jurisdiction of the Council on Mentally Ill Offenders, Prison Industry Authority, Prison Industry Authority Board, California Council for Interstate Adult Offender Supervision, and the Joint Venture Policy Advisory Board under the new department.

Under existing law, the Board of Prison Terms is comprised of 9 members, appointed by the Governor, with the advice and consent of the Senate, each for a term of 4 years and until the appointment of a successor.

Under this bill, the Board of Parole Hearings would be comprised of 17 commissioners, appointed by the Governor, subject to Senate confirmation, for 3-year terms. Of those commissions, 12 would be appointed and trained to hear only adult parole matters, and 5 would be appointed and trained only to hear juvenile parole matters. The board would be vested with all of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Board of Prison Terms, the Narcotic Addict Evaluation Authority, and the Youth Authority Board.

This bill would authorize the Governor to appoint an executive officer of the board, subject to Senate confirmation.

Existing law prescribes the procedures for holding en banc hearings of the Board of Prison Terms.

This bill would define an en banc hearing of the Board of Parole Hearings to mean a hearing conducted by a committee of 9 randomly selected commissioners who are specifically appointed to hear adult parole matters.

The bill would prescribe specified backgrounds of, and training for, persons appointed to be commissioners of the board.

Under existing law, the Board of Corrections is comprised of 15 members.

Under this bill, the Corrections Standards Authority would be comprised of 19 members. The bill would vest the new authority with all of the duties, functions, and responsibilities of the Board of Corrections and the Commission on Correctional Peace Officer Standards and Training.

Existing law prescribes the duty of the wardens to supervise the government, discipline and policy of the prisons, and to enforce all orders and regulations, subject to the orders and the policies established by the Department of Corrections.

This bill would repeal that provision.

Under existing law, the Inspector General is responsible for reviewing departmental policy and procedures for conducting audits of investigatory practices and other audits, as well as conducting investigations of the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, the Youth Authority Board, the Board of Corrections, the Narcotic Addict Evaluation Authority, the Prison Industry Authority, and the Youth and Adult Correctional Agency, as requested by either the Secretary of the Youth and Adult Correctional Agency or a Member of the Legislature.

This bill would also require the Inspector General to review, confidentially, every candidate warden, in order to determine the qualifications of each candidate, and to give a recommendation of whether or not each candidate is qualified for the position.

Existing law establishes the State Commission on Juvenile Justice, Crime, and Delinquency Prevention.

This bill would abolish that commission and instead create the State Commission on Juvenile Justice, to provide comprehensive oversight, planning, and coordination of efforts leading to the improvement of juvenile justice among state and local agencies.

The bill would make other related changes to implement the creation of the new department.

The bill would state the intent of the Legislature that the changes made in the bill supplement and refine Governor's Reorganization Plan No. 1, and to the extent that any conflicts exist between that measure and this bill, the changes made in this bill will prevail. The bill would become operative

only if Governor's Reorganization Plan No. 1 becomes effective in which case it would become operative on July 1, 2005.

This bill would also specify that the program budget structures for the Department of Corrections and Rehabilitation shall not go into effect until a process for making a transition to a new program budget structure is approved by the Legislature, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 11552 of the Government Code is amended to read:

11552. Effective January 1, 1988, an annual salary of eighty-five thousand four hundred two dollars (\$85,402) shall be paid to each of the following:

- (a) Commissioner of Financial Institutions.
- (b) Commissioner of Corporations.
- (c) Insurance Commissioner.
- (d) Director of Transportation.
- (e) Real Estate Commissioner.
- (f) Director of Social Services.
- (g) Director of Water Resources.
- (h) Chief Deputy Secretary for Adult Operations of the Department of Corrections and Rehabilitation.
- (i) Director of General Services.
- (j) Director of Motor Vehicles.
- (k) Chief Deputy Secretary for Juvenile Justice in the Department of Corrections and Rehabilitation.
- (l) Executive Officer of the Franchise Tax Board.
- (m) Director of Employment Development.
- (n) Director of Alcoholic Beverage Control.
- (o) Director of Housing and Community Development.
- (p) Director of Alcohol and Drug Abuse.
- (q) Director of the Office of Statewide Health Planning and Development.
- (r) Director of the Department of Personnel Administration.
- (s) Chairperson and Member of the Board of Equalization.
- (t) Secretary of Technology, Trade, and Commerce.
- (u) State Director of Health Services.
- (v) Director of Mental Health.
- (w) Director of Developmental Services.
- (x) State Public Defender.
- (y) Director of the California State Lottery.
- (z) Director of Fish and Game.
- (aa) Director of Parks and Recreation.

- (ab) Director of Rehabilitation.
- (ac) Director of Veterans Affairs.
- (ad) Director of Consumer Affairs.
- (ae) Director of Forestry and Fire Protection.
- (af) The Inspector General pursuant to Section 6125 of the Penal Code.
- (ag) Director of Child Support Services.
- (ah) Director of Industrial Relations.
- (ai) Chief Deputy Secretary for Adult Programs in the Department of Corrections and Rehabilitation.

The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 2. Section 11560 of the Government Code is repealed.

SEC. 3. Section 11563.1 of the Government Code is repealed.

SEC. 4. Section 12811 of the Government Code is repealed.

SEC. 5. Section 12811.1 of the Government Code is repealed.

SEC. 6. Article 14 (commencing with Section 12838) is added to Chapter 1 of Part 2.5 of Division 3 of Title 2 of the Government Code, to read:

Article 14. Department of Corrections and Rehabilitation

12838. (a) There is hereby created in state government the Department of Corrections and Rehabilitation, to be headed by a secretary, who shall be appointed by the Governor, subject to Senate confirmation, and shall serve at the pleasure of the Governor. The Department of Corrections and Rehabilitation shall consist of Adult Operations, Adult Programs, Juvenile Justice, the Corrections Standards Authority, the Board of Parole Hearings, the State Commission on Juvenile Justice, the Prison Industry Authority, and the Prison Industry Board.

(b) The Governor, upon recommendation of the secretary, may appoint an Undersecretary of the Department of Corrections and Rehabilitation, subject to Senate confirmation. The undersecretary shall hold office at the pleasure of the Governor.

(c) The Governor, upon recommendation of the secretary, shall appoint three chief deputy secretaries, subject to Senate confirmation, who shall hold office at the pleasure of the Governor. One chief deputy secretary shall oversee adult operations, one chief deputy secretary shall oversee adult programs, and one chief deputy secretary shall oversee juvenile justice for the department.

(d) The Governor, upon recommendation of the secretary, shall appoint an assistant secretary, subject to Senate confirmation, who shall be responsible for health care policy for the department, and shall serve at the pleasure of the Governor.

(e) The Governor, upon recommendation of the secretary, shall appoint an Assistant Secretary for Victim and Survivor Rights and Services, and an Assistant Secretary for Correctional Safety, who shall serve at the pleasure of the Governor.

12838.1. There is hereby created within the Department of Corrections and Rehabilitation, under the Chief Deputy Secretary for Adult Operations, the Division of Adult Institutions and the Division of Adult Parole Operations. Each division shall be headed by a division chief, who shall be appointed by the Governor, upon recommendation of the secretary, subject to Senate confirmation, who shall serve at the pleasure of the Governor.

(b) The Governor shall, upon recommendation of the secretary, appoint five subordinate officers to the Chief of the Division of Adult Institutions, subject to Senate confirmation, who shall serve at the pleasure of the Governor. Each subordinate officer appointed pursuant to this subdivision shall oversee an identified category of adult institutions, one of which shall be female offender facilities.

12838.2. There is hereby created within the Department of Corrections and Rehabilitation, under the Chief Deputy Secretary for Adult Programs, the Division of Community Partnerships, the Division of Education, Vocations and Offender Programs, and the Division of Correctional Health Care Services. Each division shall be headed by a chief who shall be appointed by the Governor, at the recommendation of the secretary, subject to Senate confirmation, who shall serve at the pleasure of the Governor.

12838.3. There is hereby created within the Department of Corrections and Rehabilitation under the Chief Deputy Secretary for Juvenile Justice, the Division of Juvenile Facilities, the Division of Juvenile Programs, and the Division of Juvenile Parole Operations. Each division shall be headed by a chief, who shall be appointed by the Governor, at the recommendation of the secretary, subject to Senate confirmation, who shall serve at the pleasure of the Governor.

12838.4. The Board of Parole Hearings is hereby created. The Board of Parole Hearings shall be comprised of 17 commissioners, who shall be appointed by the Governor, subject to Senate confirmation, for three-year terms. The Board of Parole Hearings hereby succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the following entities, which shall no longer exist: Board of Prison Terms, Narcotic Addict Evaluation Authority, and Youthful Offender Parole Board. For purposes of this article, the above entities shall be known as “predecessor entities.”

12838.5. The Department of Corrections and Rehabilitation hereby succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of the following entities, which shall no longer exist: Youth and Adult Correctional Agency, Department of Corrections, Department of the Youth Authority, Commission on Correctional Peace Officer Standards and Training, Board

of Corrections, and State Commission on Juvenile Justice, Crime and Delinquency Prevention. For purposes of this article, the above entities shall be known as “predecessor entities.”

12838.6. The following entities shall be continued in existence within the Department of Corrections and Rehabilitation and shall retain existing functions, powers, responsibilities, and jurisdiction, except as expressly provided otherwise: Council on Mentally Ill Offenders, Prison Industry Authority, Prison Industry Authority Board, California Council for Interstate Adult Offender Supervision, and the Joint Venture Policy Advisory Board. For purposes of this article, these shall be known as “continuing entities.”

12838.7. (a) The Secretary of the Department of Corrections and Rehabilitation shall serve as the Chief Executive Officer of the Department of Corrections and Rehabilitation and shall have all of the powers and authority which are conferred upon a head of a state department by Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Without limiting any other powers or duties, the secretary shall assure compliance with the terms of any state plan, memorandums of understanding, administrative order, interagency agreements, assurances, single state agency obligations, federal statute and regulations, and any other form of agreement or obligation that vital government activities rely upon, or are a condition to, the continued receipt by the department of state or federal funds or services. This includes, but is not limited to, the designation, appointment, and provision of individuals, groups, and resources to fulfill specific obligations of any agency, board, or department that is abolished pursuant to Section 12838.4 or 12838.5.

12838.8. All regulations adopted by the predecessor entities, continuing entities, and any of their predecessors are expressly continued in force. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the predecessor entities and any of their predecessors shall mean the Department of Corrections and Rehabilitation. Any action concerning these duties, responsibilities, obligations, liabilities, and functions shall not abate but shall continue in the name of the Department of Corrections and Rehabilitation, and the Department of Corrections and Rehabilitation shall be substituted for the predecessor entities and continuing entities by the court wherein the action is pending. The substitution shall not affect the rights of the parties to the action.

12838.9. No contract, lease, license, or any other agreement to which the predecessor entities, continuing entities, and any of their predecessors are a party shall be void or voidable by reason of this measure, but shall continue in full force and effect, with the Department of Corrections and Rehabilitation assuming all of the rights, obligations, and duties of the predecessor entities. That assumption by the Department of Corrections and Rehabilitation shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor

entities, continuing entities, and any of their predecessors on or before July 1, 2005, shall become the indebtedness of any newly created entity. Any ongoing obligations or responsibilities of the predecessor entities, continuing entities, and any of their predecessors for managing and maintaining bond issuances shall be transferred to the newly created entity without impairment to any security contained in the bond instrument.

12838.10. On and after July 1, 2005, the unencumbered balance of all money available for expenditure by the predecessor entities, continuing entities, and any of their predecessors in carrying out any functions transferred to the Department of Corrections and Rehabilitation by this measure shall be made available for the support and maintenance of the Department of Corrections and Rehabilitation. All books, documents, records, and property of the predecessor entities shall be transferred to the Department of Corrections and Rehabilitation.

12838.11. On and after July 1, 2005, positions filled by appointment by the Governor in the predecessor entities or continuing entities shall be transferred to the Department of Corrections and Rehabilitation. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor, unless as otherwise expressly stated. Titles of positions transferred pursuant to this section shall be determined by the secretary with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law on June 30, 2005.

12838.12. (a) Any officer or employee of the predecessor entities who is engaged in the performance of a function specified in this reorganization plan and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Corrections and Rehabilitation pursuant to the provisions of Section 19050.9.

(b) Any officer or employee of the continuing entities who is engaged in the performance of a function specified in this reorganization plan and who is serving in the state civil service, other than as a temporary employee, shall continue such status with the continuing entity pursuant to the provisions of Section 19050.9.

(c) The status, position, and rights of any officer or employee of the predecessor entities shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Corrections and Rehabilitation, as the case may be, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

12838.13. This article shall become operative as of July 1, 2005.

SEC. 7. Section 2036 of the Penal Code is repealed.

SEC. 8. Section 2038 of the Penal Code is repealed.

SEC. 9. Section 2043.3 of the Penal Code is repealed.

SEC. 10. Section 2045.3 of the Penal Code is repealed.

SEC. 11. Section 2046.3 of the Penal Code is repealed.

SEC. 12. Section 2048.3 of the Penal Code is repealed.

SEC. 13. Section 2048.7 of the Penal Code is repealed.

SEC. 14. Section 2079 of the Penal Code is repealed.

SEC. 15. Article 3 (commencing with Section 2400) of Chapter 2 of Title 1 of Part 3 of the Penal Code is repealed.

SEC. 16. Section 2800 of the Penal Code is amended to read:

2800. Commencing July 1, 2005, there is hereby continued in existence within the Department of Corrections and Rehabilitation the Prison Industry Authority. As used in this article “authority” means the Prison Industry Authority. Commencing July 1, 2005, any reference to the Department of Corrections shall refer to the Department of Corrections and Rehabilitation.

SEC. 17. Section 2802 of the Penal Code is amended to read:

2802. Commencing July 1, 2005, there is hereby continued in existence within the Department of Corrections and Rehabilitation a Prison Industry Board. The board shall consist of the following 11 members:

(a) The Secretary of the Department of Corrections and Rehabilitation, or his or her designee.

(b) The Director of the Department of General Services, or his or her designee.

(c) The Secretary of Business, Transportation and Housing, or his or her designee.

(d) The Speaker of the Assembly shall appoint two members to represent the general public.

(e) The Senate Committee on Rules shall appoint two members to represent the general public.

(f) The Governor shall appoint four members. Of these, two shall be representatives of organized labor, and two shall be representatives of industry. The initial term of one of the members appointed by the Speaker of the Assembly shall be two years, and the initial term of the other shall be three years. The initial term of one of the members appointed by the Senate Committee on Rules shall be two years, and the initial term of the other shall be three years. The initial terms of the four members appointed by the Governor shall be four years. All subsequent terms of all members shall be for four years. Each member’s term shall continue until the appointment and qualification of his or her successor.

SEC. 18. Section 2803 of the Penal Code is amended to read:

2803. The Secretary of the Department Corrections and Rehabilitation shall be the chairperson of the board. The chairperson shall be the administrative head of the board and shall exercise all duties and functions necessary to insure that the responsibilities of the board are successfully discharged. The board shall hold meetings on the call of the chairperson or a majority of the board. Six members of the board, including the chairperson, shall constitute a quorum. The vote of a majority of the members serving on the board is necessary for the transaction of the business of the board.

SEC. 19. Section 2804 of the Penal Code is amended to read:

2804. The appointed members of the board shall receive a per diem to be determined by the chairperson, but not less than the usual per diem rate allowed to the Department of Corrections and Rehabilitation employees during travel out of state. All members, including the chairperson, shall also receive their actual and necessary expenses of travel incurred in attending meetings of the commission and in making investigations, either as a board or individually as members of the board at the request of the chairperson. All the expenses shall be paid from the Prison Industries Revolving Fund.

SEC. 20. Section 2806 of the Penal Code is amended to read:

2806. There is hereby constituted a permanent revolving fund in the sum of not less than seven hundred thirty thousand dollars (\$730,000), to be known as the Prison Industries Revolving Fund, and to be used to meet the expenses necessary in the purchasing of materials and equipment, salaries, construction and cost of administration of the prison industries program. The fund may also be used to refund deposits either erroneously made or made in cases where delivery of products cannot be consummated. The fund shall at all times contain the amount of at least seven hundred thirty thousand dollars (\$730,000), either in cash or in receivables, consisting of raw materials, finished or unfinished products, inventory at cost, equipment, or any combination of the above. Money received from the rendering of services or the sale of products in the prisons and institutions under the jurisdiction of the Department of Corrections and Rehabilitation pursuant to this article shall be paid to the State Treasurer monthly and shall be credited to the fund. At any time that the Secretary of the Department of Corrections and Rehabilitation and the Director of Finance jointly determine that the balance in that revolving fund is greater than is necessary to carry out the purposes of the authority, they shall so inform the Controller and request a transfer of the unneeded balance from the revolving fund to the General Fund of the State of California. The Controller is authorized to transfer balances upon request. Funds deposited in the revolving fund are not subject to annual appropriation by the Legislature and may be used without a time limit by the authority.

The Prison Industries Revolving Fund is not subject to the provisions of Articles 2 (commencing with Section 13320) and 3 (commencing with Section 13335) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code.

Any major capital outlay project undertaken by the authority pursuant to this article shall be subject to review by the Public Works Board pursuant to the provisions of Part 10.5 (commencing with Section 15752) of Division 3 of Title 2 of the Government Code.

SEC. 21. Section 2807 of the Penal Code is amended to read:

2807. (a) The authority is hereby authorized and empowered to operate industrial, agricultural, and service enterprises which will provide products and services needed by the state, or any political subdivision thereof, or by the federal government, or any department, agency, or

corporation thereof, or for any other public use. Products may be purchased by state agencies to be offered for sale to inmates of the department and to any other person under the care of the state who resides in state-operated institutional facilities. Fresh meat may be purchased by food service operations in state-owned facilities and sold for onsite consumption.

(b) All things authorized to be produced under subdivision (a) shall be purchased by the state, or any agency thereof, and may be purchased by any county, city, district, or political subdivision, or any agency thereof, or by any state agency to offer for sale to persons residing in state-operated institutions, at the prices fixed by the Prison Industry Authority. State agencies shall make maximum utilization of these products, and shall consult with the staff of the authority to develop new products and adapt existing products to meet their needs.

SEC. 21. Section 2808 of the Penal Code is amended to read:

2808. The board, in the exercise of its duties, shall have all of the powers and do all of the things that the board of directors of a private corporation would do, except as specifically limited in this article, including, but not limited to, all of the following:

(a) To enter into contracts and leases, execute leases, pledge the equipment, inventory and supplies under the control of the authority and the anticipated future receipts of any enterprise under the jurisdiction of the authority as collateral for loans, and execute other necessary instruments and documents.

(b) To assure that all funds received by the authority are kept in commercial accounts according to standard accounting practices.

(c) To arrange for an independent annual audit.

(d) To review and approve the annual budget for the authority, in order to assure that the solvency of the Prison Industries Revolving Fund is maintained.

(e) To contract to employ a general manager to serve as the chief administrative officer of the authority. The general manager shall serve at the pleasure of the chairperson. The general manager shall have wide and successful experience with a productive enterprise, and have a demonstrated appreciation of the problems associated with prison management.

(f) To apply for and administer grants and contracts of all kinds.

(g) To establish, notwithstanding any other provision of law, procedures governing the purchase of raw materials, component parts, and any other goods and services which may be needed by the authority or in the operation of any enterprise under its jurisdiction. Those procedures shall contain provisions for appeal to the board from any action taken in connection with them.

(h) To establish, expand, diminish, or discontinue industrial, agricultural and service enterprises under the authority's jurisdiction to enable it to operate as a self-supporting enterprise, to provide as much

employment for inmates as is feasible, and to provide diversified work activities to minimize the impact on existing private industry in the state.

(i) To hold public hearings pursuant to subdivision (h) to provide an opportunity for persons or organizations who may be affected to appear and present testimony concerning the plans and activities of the authority. The authority shall assure adequate public notice of those hearings. No new industrial, agricultural, or service enterprise which involves a gross annual production of more than fifty thousand dollars (\$50,000) shall be established unless and until a hearing concerning the enterprise has been held by a committee of persons designated by the board including at least two board members. The board shall take into consideration the effect of a proposed enterprise on California industry and shall not approve the establishment of the enterprise if the board determines it would have a comprehensive and substantial adverse impact on California industry which cannot be mitigated.

(j) To periodically determine the prices at which activities, supplies, and services shall be sold.

(k) To report to the Legislature in writing, on or before February 1 of each year, regarding:

(1) The financial activity and condition of each enterprise under its jurisdiction.

(2) The plans of the board regarding any significant changes in existing operations.

(3) The plans of the board regarding the development of new enterprises.

(4) A breakdown, by institution, of the number of prisoners at each institution, working in enterprises under the jurisdiction of the authority, said number to indicate the number of prisoners which are not working full time.

SEC. 23. Section 2809 of the Penal Code is amended to read:

2809. Notwithstanding any other provision of law, commencing July 1, 2005, the authority may recruit and employ civilian staff that may be necessary to carry out the purposes of this article, and shall establish recruiting, testing, hiring, promotion, disciplinary, and dismissal procedures and practices which will meet the unique personnel needs of the authority. The practices may include incentives based on productivity, profit-sharing plans, or other criteria which will encourage civilian employee involvement in the productivity goals of the authority. The procedures and practices shall apply to all employees working in enterprises under the jurisdiction of the authority. The general manager shall be the appointing authority for all personnel of the authority other than the general manager.

SEC. 24. Section 2810 of the Penal Code is amended to read:

2810. Commencing July 1, 2005, the general manager, with the approval of the Department of Finance, may authorize the borrowing of money by the authority for purposes of any of the following:

(a) Operating the business affairs of the authority.

- (b) Purchasing new equipment, materials and supplies.
- (c) Constructing new facilities, or repairing, remodeling, or demolishing old facilities.

Funds may be borrowed from private sources, upon those terms that the Department of Finance deems appropriate, including but not limited to, the use of equipment under the jurisdiction of the authority, and of the future income of an enterprise under the jurisdiction of the authority, as collateral to secure any loan.

SEC. 25. Section 2810.5 of the Penal Code is amended to read:

2810.5. Notwithstanding any other provision of law, commencing July 1, 2005, the Pooled Money Investment Board, or its successor, may grant loans to the authority when money is appropriated for that purpose by the Legislature, upon application by the Secretary of the Department of Corrections and Rehabilitation, in order to finance the establishment of a new industrial, agricultural, or service enterprise. All loans shall bear the same interest rate as the pooled money market investment rate and shall have a maximum repayment period of 20 years from the date of approval of the loan.

Prior to making its decision to grant a loan, the Pooled Money Investment Board, or its successor, shall require the authority to demonstrate all of the following:

(a) The proposed industry project cannot be feasibly financed from private sources under Section 2810. The authority shall present proposed loan conditions from at least two private sources.

(b) The proposed industry project cannot feasibly be financed from proceeds from other Prison Industry Authority enterprises.

(c) The proceeds from the proposed project provide for a reasonable payback schedule to the General Fund.

SEC. 26. Section 2811 of the Penal Code is amended to read:

2811. Commencing July 1, 2005, the general manager shall adopt and maintain a compensation schedule for inmate employees. That compensation schedule shall be based on quantity and quality of work performed and shall be required for its performance, but in no event shall that compensation exceed one-half the minimum wage provided in Section 1182 of the Labor Code, except as otherwise provided in this code. This compensation shall be credited to the account of the inmate.

Inmate compensation shall be paid from the Prison Industries Revolving Fund.

SEC. 27. Section 2815 of the Penal Code is amended to read:

2815. Commencing July 1, 2005, the authority may, under rules prescribed by the Secretary of the Department of Corrections and Rehabilitation, dispose of products developed from the operations of industrial enterprises in prisons and institutions under the jurisdiction of the authority by sale to foreign governments, corporations for distribution in foreign countries, and private persons or their agents in markets outside the United States and in countries which permit the importation of prison-made goods. All sales made pursuant to this section shall be

reported to the Legislature in the general manager's annual report pursuant to Section 2808.

SEC. 28. Section 2816 of the Penal Code is amended to read:

2816. With the approval of the Department of Finance, there shall be transferred to, or deposited in, the Prison Industries Revolving Fund for purposes authorized by this section, money appropriated from any source including sources other than state appropriations.

Notwithstanding subdivision (b) of Section 2808, the general manager may order any authorized public works project involving construction, renovation, or repair of prison facilities to be performed by inmate labor when the total expenditure does not exceed the project limit established by Section 10108 of the Public Contract Code. Projects entailing expenditure of greater than the project limit established by Section 10108 of the Public Contract Code shall be reviewed and approved by the Secretary of the Department of Corrections and Rehabilitation.

Money so transferred or deposited shall be available for expenditure by the department for the purposes for which appropriated, contributed or made available, without regard to fiscal years and irrespective of the provisions of Sections 13340 and 16304 of the Government Code. Money transferred or deposited pursuant to this section shall be used only for purposes authorized in this section.

SEC. 29. Section 3041 of the Penal Code is amended to read:

3041. (a) In the case of any inmate sentenced pursuant to any provision of law, other than Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, the Board of Parole Hearings shall meet with each inmate during the third year of incarceration for the purposes of reviewing the inmate's file, making recommendations, and documenting activities and conduct pertinent to granting or withholding postconviction credit. One year prior to the inmate's minimum eligible parole release date a panel of two or more commissioners or deputy commissioners shall again meet with the inmate and shall normally set a parole release date as provided in Section 3041.5. No more than one member of the panel shall be a deputy commissioner. In the event of a tie vote, the matter shall be referred for an en banc hearing by the board. The release date shall be set in a manner that will provide uniform terms for offenses of similar gravity and magnitude in respect to their threat to the public, and that will comply with the sentencing rules that the Judicial Council may issue and any sentencing information relevant to the setting of parole release dates. The board shall establish criteria for the setting of parole release dates and in doing so shall consider the number of victims of the crime for which the inmate was sentenced and other factors in mitigation or aggravation of the crime. At least one commissioner of the panel shall have been present at the last preceding meeting, unless it is not feasible to do so or where the last preceding meeting was the initial meeting. Any person on the hearing panel may request review of any decision regarding parole for an en banc hearing by the board. In case of a review, a majority vote in favor of parole

by the board members participating in an en banc hearing is required to grant parole to any inmate.

(b) The panel or the board, sitting en banc, shall set a release date unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual, and that a parole date, therefore, cannot be fixed at this meeting. After the effective date of this subdivision, any decision of the parole panel finding an inmate suitable for parole shall become final within 120 days of the date of the hearing. During that period, the board may review the panel's decision. The panel's decision shall become final pursuant to this subdivision unless the board finds that the panel made an error of law, or that the panel's decision was based on an error of fact, or that new information should be presented to the board, any of which when corrected or considered by the board has a substantial likelihood of resulting in a substantially different decision upon a rehearing. In making this determination, the board shall consult with the commissioners who conducted the parole consideration hearing. No decision of the parole panel shall be disapproved and referred for rehearing except by a majority vote of the board, sitting en banc, following a public hearing.

(c) For the purpose of reviewing the suitability for parole of those inmates eligible for parole under prior law at a date earlier than that calculated under Section 1170.2, the board shall appoint panels of at least two persons to meet annually with each inmate until the time the person is released pursuant to proceedings or reaches the expiration of his or her term as calculated under Section 1170.2.

(d) It is the intent of the Legislature that during times when there is no backlog of inmates awaiting parole hearings, life parole consideration hearings or life rescission hearings, hearings will be conducted by a panel of three or more members, the majority of whom shall be commissioners. The board shall report monthly on the number of cases where an inmate has not received a completed initial or subsequent parole consideration hearing within 30 days of the hearing date required by subdivision (a) of Section 3041.5 or paragraph (2) of subdivision (b) of Section 3041.5, unless the inmate has waived the right to those timeframes. That report shall be considered the backlog of cases for purposes of this section, and shall include information on the progress toward eliminating the backlog, and on the number of inmates who have waived their right to the above timeframes. The report shall be made public at a regularly scheduled meeting of the board and a written report shall be made available to the public and transmitted to the Legislature quarterly.

(e) For purposes of this section, an en banc hearing by the board means a hearing conducted by a committee of nine randomly selected commissioners who are specifically appointed to hear adult parole matters, selected by the chairperson. The committee shall be comprised of a

majority of commissioners holding office on the date the matter is heard by the committee.

SEC. 30. Section 3041.1 of the Penal Code is amended to read:

3041.1. Up to 90 days prior to a scheduled release date, the Governor may request review of any decision by a parole authority concerning the grant or denial of parole to any inmate in a state prison. The Governor shall state the reason or reasons for the request, and whether the request is based on a public safety concern, a concern that the gravity of current or past convicted offenses may have been given inadequate consideration, or on other factors. When a request has been made, a randomly selected committee comprised of nine commissioners specifically appointed to hear adult parole matters and who are holding office at the time, shall review the parole decision. In case of a review, a vote in favor of parole by a majority of the commissioners on the committee shall be required to grant parole to any inmate. In carrying out any review, the board shall comply with the provisions of this chapter.

SEC. 31. The heading of Chapter 1 (commencing with Section 5000) of Title 7 of Part 3 of the Penal Code is amended to read:

CHAPTER 1. THE DEPARTMENT OF CORRECTIONS AND REHABILITATION

SEC. 32. Section 5000 of the Penal Code is amended to read:

5000. Commencing July 1, 2005, any reference to the Department of Corrections in this or any other code refers to the Department of Corrections and Rehabilitation, Division of Adult Operations.

Nothing in the act enacted by Senate Bill 737 of the 2005-06 Regular Session shall be construed to alter the primary objective of adult incarceration under the reorganized Department of Corrections and Rehabilitation, which remains public safety as articulated in the legislative findings and declarations set forth in Section 1170.

SEC. 33. Section 5001 of the Penal Code is amended to read:

5001. (a) The Governor may request the State Personnel Board to use extensive recruitment and merit selection techniques and procedures to provide lists of persons qualified for appointment pursuant to Article 14 (commencing with Section 12838) of Chapter 1 of Part 2.5 of Division 3 of the Government Code. The Governor may appoint any person from the lists of qualified persons or may reject all names and appoint other persons who meet the requirements of the positions.

SEC. 34. Section 5003.5 of the Penal Code is amended to read:

5003.5. The Board of Parole Hearings is empowered to advise and recommend to the Secretary of the Department of Corrections and Rehabilitation on general and specific policies and procedures relating to the duties and functions of the secretary. The secretary is empowered to advise and recommend to the board on matters of general and specific policies and procedures, relating to the duties and functions of the board.

The secretary and the board shall meet for purposes of exchange of information and advice.

SEC. 35. The heading of Chapter 2 (commencing with Section 5050) of Title 7 of Part 3 of the Penal Code is amended to read:

CHAPTER 2. THE SECRETARY OF THE DEPARTMENT OF CORRECTIONS
AND REHABILITATION

SEC. 36. Section 5050 of the Penal Code is amended to read:

5050. Commencing July 1, 2005, any reference to the Director of Corrections in this or any other code refers to the Secretary of the Department of Corrections and Rehabilitation. As of that date, the office of the Director of Corrections is abolished.

SEC. 37. Section 5051 of the Penal Code is repealed.

SEC. 38. Section 5051.5 of the Penal Code is repealed.

SEC. 39. Section 5052 of the Penal Code is amended to read:

5052. Any officer or employee of the Department of Corrections and Rehabilitation designated in writing by the secretary, shall have the power of a head of a department pursuant to Article 2 (commencing at Section 11180) of Chapter 2, Part 1, Division 3, Title 2, of the Government Code.

SEC. 40. Section 5053 of the Penal Code is repealed.

SEC. 41. Section 5054 of the Penal Code is amended to read:

5054. Commencing July 1, 2005, the supervision, management and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline and employment of persons confined therein are vested in the Secretary of the Department of Corrections and Rehabilitation.

SEC. 42. Section 5055 of the Penal Code is amended to read:

5055. Commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the Department of Corrections and Rehabilitation, except where those powers and duties are expressly vested by law in the Board of Parole Hearings.

Whenever a power is granted to the secretary or a duty is imposed upon the secretary, the power may be exercised or the duty performed by a subordinate officer to the secretary or by a person authorized pursuant to law by the secretary.

SEC. 43. Section 5057 of the Penal Code is amended to read:

5057. (a) Subject to the powers of the Department of Finance under Section 13300 of the Government Code, the secretary shall establish an accounting and auditing system for all of the agencies and institutions including the prisons which comprise the department in whatever form that will best facilitate their operation, and may modify the system from time to time.

(b) The accounting and auditing system shall include those accounts and records that are necessary to properly account for all money and property of the inmates.

(c) Except where other disposition is provided by law, all money belonging to the state received by the department, shall be reported to the Controller and deposited in the State Treasury monthly.

SEC. 44. Section 5067 of the Penal Code is repealed.

SEC. 45. The heading of Chapter 3 (commencing with Section 5075) of Title 7 of Part 3 of the Penal Code is amended to read:

CHAPTER 3. THE BOARD OF PAROLE HEARINGS

SEC. 46. Section 5075 of the Penal Code is amended to read:

5075. (a) Commencing July 1, 2005, there is hereby created the Board of Parole Hearings. As of July 1, 2005, any reference to the Board of Prison Terms in this or any other code refers to the Board of Parole Hearings. As of that date, the Board of Prison Terms is abolished.

(b) The Governor shall appoint 17 commissioners, subject to Senate confirmation, pursuant to this section. Of those 17 commissioners, 12 shall be appointed and trained to hear only adult matters, and five shall be appointed and trained to hear only juvenile matters. The terms of the commissioners shall expire as follows: eight on July 1, 2007, and nine on July 1, 2008. Successor commissioners shall hold office for terms of three years, each term to commence on the expiration date of the predecessor. Any appointment to a vacancy that occurs for any reason other than expiration of the term shall be for the remainder of the unexpired term. Commissioners are eligible for reappointment. The selection of persons and their appointment by the Governor and confirmation by the Senate shall reflect as nearly as possible a cross section of the racial, sexual, economic, and geographic features of the population of the state.

(c) The chair of the board shall be designated by the Governor periodically. The Governor may appoint an executive officer of the board, subject to Senate confirmation, who shall hold office at the pleasure of the Governor. The executive officer shall be the administrative head of the board and shall exercise all duties and functions necessary to insure that the responsibilities of the board are successfully discharged. The secretary shall be the appointing authority for all civil service positions of employment with the board.

(d) Each commissioner shall participate in hearings on each workday, except when it is necessary for a commissioner to attend training, en banc hearings or full board meetings, or other administrative business requiring the participation of the commissioner. For purposes of this subdivision, these hearings shall include parole consideration hearings, parole rescission hearings, and parole progress hearings.

SEC. 47. Section 5075.1 is added to the Penal Code, to read:

5075.1. The Board of Parole Hearings shall do all of the following:

(a) Conduct parole consideration hearings, parole rescission hearings, and parole progress hearings for adults and juveniles under the jurisdiction of the department.

(b) Conduct mentally disordered offender hearings.

(c) Conduct sexually violent predator hearings.

(d) Review inmates' requests for reconsideration of denial of good-time credit and setting of parole length or conditions, pursuant to Section 5077.

(e) Determine revocation of parole for adult offenders under the jurisdiction of the Division of Adult Parole Operations, pursuant to Section 5077.

(f) Carry out the functions described in Section 1719 of the Welfare and Institutions Code, and make every order granting and revoking parole and issuing final discharges to any person under the jurisdiction of the Department of Corrections and Rehabilitation.

(g) Conduct studies pursuant to Section 3150 of the Welfare and Institutions Code.

(h) Investigate and report on all applications for reprieves, pardons, and commutation of sentence, as provided in Title 6 (commencing with Section 4800) of Part 3.

(i) Exercise other powers and duties as prescribed by law.

(j) Effective January 1, 2007, all commissioners appointed and trained to hear juvenile parole matters, together with their duties prescribed by law as functions of the Board of Parole Hearings concerning wards under the jurisdiction of the Department of Corrections and Rehabilitation, are transferred to the Chief Deputy Secretary for Juvenile Justice. All applicable regulations in effect at the time of transfer shall be deemed to apply to those commissioners until new regulations are adopted.

SEC. 48. Section 5075.6 is added to the Penal Code, to read:

5075.6. (a) (1) Commissioners and deputy commissioners hearing matters pursuant to subdivision (f) of Section 5075.1, or any other matter involving wards under the jurisdiction of the Division of Juvenile Facilities, shall have a broad background in, and ability for, appraisal of youthful law offenders and delinquents, the circumstances of delinquency for which those persons are committed, and the evaluation of an individual's progress toward reformation. Insofar as practicable, commissioners and deputy commissioners selected to hear these matters also shall have a varied and sympathetic interest in youth correction work and shall have experience or education in the fields of corrections, sociology, law, law enforcement, mental health, medicine, drug treatment, or education.

(2) Within 60 days of appointment and annually thereafter, commissioners and deputy commissioners described in subdivision (a) shall undergo a minimum of 40 hours of training in the following areas:

(A) Treatment and training programs provided to wards at Department of Corrections and Rehabilitation institutions, including, but not limited to, educational, vocational, mental health, medical, substance abuse, psychotherapeutic counseling, and sex offender treatment programs.

(B) Current national research on effective interventions with juvenile offenders and how they compare to department program and treatment services.

(C) Parole Services.

(D) Commissioner duties and responsibilities.

(E) Knowledge of laws and regulations applicable to conducting parole hearings, including the rights of victims, witnesses, and wards.

(F) Factors influencing ward lengths of stay and ward recidivism rates and their relationship to one another.

(b) (1) Commissioners and deputy commissioners hearing matters concerning adults under the jurisdiction of the Department of Corrections and Rehabilitation shall have a broad background in criminal justice and an ability for appraisal of adult offenders, the crimes for which those persons are committed, and the evaluation of an individual's progress toward reformation. Insofar as practicable, commissioners and deputy commissioners shall have a varied interest in adult correction work, public safety, and shall have experience or education in the fields of corrections, sociology, law, law enforcement, medicine, mental health, or education.

(2) All commissioners and deputy commissioners who conduct hearings for the purpose of considering the parole suitability of inmates, the setting of a parole release date for inmates, or the revocation of parole for adult parolees, shall, within 60 days of appointment and annually thereafter undergo a minimum of 40 hours of training in the following areas:

(A) Treatment and training programs provided to inmates at Department of Corrections and Rehabilitation institutions, including, but not limited to, educational, vocational, mental health, medical, substance abuse, psychotherapeutic counseling, and sex offender treatment programs.

(B) Parole services.

(C) Commissioner duties and responsibilities.

(D) Knowledge of laws and regulations applicable to conducting parole hearings, including the rights of victims, witnesses, and inmates.

SEC. 49. Section 5076.1 of the Penal Code is amended to read:

5076.1. (a) The board shall meet at each of the state prisons and facilities under the jurisdiction of the Division of Juvenile Facilities. Meetings shall be held at whatever times may be necessary for a full and complete study of the cases of all inmates and wards whose matters are considered. Other times and places of meeting may also be designated by the board. Each commissioner of the board shall receive his actual necessary traveling expenses incurred in the performance of his or her official duties. Where the board performs its functions by meeting en banc in either public or executive sessions to decide matters of general policy, at least nine members shall be present, and no action shall be valid unless it is concurred in by a majority vote of those present.

(b) The board may use deputy commissioners to whom it may assign appropriate duties, including hearing cases and making decisions. Those

decisions shall be made in accordance with policies approved by a majority of the total membership of the board.

(c) The board may meet and transact business in panels. Each panel shall consist of two or more persons, subject to subdivision (d) of Section 3041. No action shall be valid unless concurred in by a majority vote of the persons present. In the event of a tie vote, the matter shall be referred to a randomly selected committee, comprised of a majority of the commissioners specifically appointed to hear adult parole matters and who are holding office at the time.

(d) When determining whether commissioners or deputy commissioners shall hear matters pursuant to subdivision (f) of Section 5075.1, or any other matter submitted to the board involving wards under the jurisdiction of the Division of Juvenile Facilities, the chair shall take into account the degree of complexity of the issues presented by the case. Any decision resulting in the extension of a parole consideration date shall entitle a ward to appeal the decision to a panel comprised of two or more commissioners, of which no more than one may be a deputy commissioner. The panel shall consider and act upon the appeal in accordance with rules established by the board.

(e) Consideration of parole release for persons sentenced to life imprisonment pursuant to subdivision (b) of Section 1168 shall be heard by a panel of two or more commissioners or deputy commissioners, of which only one may be a deputy commissioner. A recommendation for recall of a sentence under subdivisions (d) and (e) of Section 1170 shall be made by a panel, a majority of whose commissioners are commissioners of the Board of Parole Hearings.

SEC. 50. Section 5082 of the Penal Code is repealed.

SEC. 51. The heading of Chapter 4 (commencing with Section 6001) of Title 7 of Part 3 of the Penal Code is amended to read:

CHAPTER 4. DIVISION OF JUVENILE FACILITIES

SEC. 52. Section 6001 of the Penal Code is amended to read:

6001. Commencing July 1, 2005, the establishment, organization, jurisdiction, powers, duties, responsibilities, and functions of the Youth Authority as provided in the Youth Authority Act (Chapter 1 (commencing with Section 1700) of Division 2.5 of the Welfare and Institutions Code), as it existed on June 30, 2005, are continued in the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

SEC. 53. Section 6003 of the Penal Code is repealed.

SEC. 54. Section 6004 of the Penal Code is repealed.

SEC. 55. The heading of Chapter 5 (commencing with Section 6024) of Title 7 of Part 3 of the Penal Code is amended to read:

CHAPTER 5. THE CORRECTIONS STANDARDS AUTHORITY

SEC. 56. Section 6024 of the Penal Code is amended to read:

6024. Commencing July 1, 2005, there is hereby established with the Department of Corrections and Rehabilitation the Corrections Standards Authority. As of July 1, 2005, any reference to the Board of Corrections refers to the Corrections Standards Authority. As of that date, the Board of Corrections is abolished.

SEC. 57. Section 6025 of the Penal Code is amended to read:

6025. (a) Commencing July 1, 2005, the Corrections Standards Authority shall be composed of 19 members, one of whom shall be the Secretary of the Department of Corrections and Rehabilitation, or his or her designee, who shall be designated as the chairperson, and four of whom shall be subordinate officers of the secretary. At least one subordinate officer shall be a manager or administrator of a state correctional facility for adult offenders, and at least one subordinate officer shall be a manager or administrator of a state correctional facility for juvenile offenders. The remaining 14 members shall be appointed by the Governor after consultation with, and with the advice of, the secretary, and with the advice and consent of the Senate. The gubernatorial appointments shall include all of the following:

(1) A county sheriff in charge of a local detention facility which has a Corrections Standards Authority rated capacity of 200 or less inmates.

(2) A county sheriff in charge of a local detention facility which has a Corrections Standards Authority rated capacity of over 200 inmates.

(3) A county supervisor or county administrative officer.

(4) A chief probation officer from a county with a population over 200,000.

(5) A chief probation officer from a county with a population under 200,000.

(6) A manager or administrator of a county local detention facility.

(7) An administrator of a local community-based correctional program.

(8) Two public members, at least one of whom shall represent the interests of crime victims.

(9) Four rank and file representatives: one juvenile probation officer who is a first-line supervisor or lower rank, with a minimum of five years of experience as a juvenile probation officer; one deputy sheriff who is a sergeant or lower rank, with a minimum of five years of experience in an adult correctional facility; one state parole officer or parole agent; and one person with a minimum of five years experience working in a state adult correctional facility.

(10) A representative of a community-based youth service organization.

(b) The terms of the members appointed by the Governor shall expire as follows: seven on July 1, 2007, and seven on July 1, 2008. Successor members shall hold office for terms of three years, each term to commence on the expiration date of the predecessor. Any appointment to a vacancy that occurs for any reason other than expiration of the term shall be for the remainder of the unexpired term. Members are eligible for reappointment.

(c) The authority shall select a vice chairperson from among its members. Ten members of the board shall constitute a quorum.

(d) When the authority is hearing charges against any member, the individual concerned shall not sit as a member of the board for the period of hearing of charges and the determination of recommendations to the Governor.

(e) If any appointed member is not in attendance for three consecutive meetings the authority may recommend to the Governor that the member be removed and the Governor may make a new appointment, with the advice and consent of the Senate, for the remainder of the term.

SEC. 58. Section 6026 of the Penal Code is amended to read:

6026. The Corrections Standards Authority shall be the means whereby the Department of Corrections and Rehabilitation may correlate its individual programs for adults and youths under its jurisdiction.

SEC. 59. Section 6030 of the Penal Code is amended to read:

6030. (a) The Corrections Standards Authority shall establish minimum standards for state and local correctional facilities. The standards for state correctional facilities shall be established by January 1, 2007. The authority shall review those standards biennially and make any appropriate revisions.

(b) The standards shall include, but not be limited to, the following: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in state and local correctional facilities, and personnel training.

(c) The standards shall require that at least one person on duty at the facility is knowledgeable in the area of fire and life safety procedures.

(d) The standards shall also include requirements relating to the acquisition, storage, labeling, packaging, and dispensing of drugs.

(e) In establishing minimum standards, the authority shall seek the advice of the following:

(1) For health and sanitary conditions:

The State Department of Health Services, physicians, psychiatrists, local public health officials, and other interested persons.

(2) For fire and life safety:

The State Fire Marshal, local fire officials, and other interested persons.

(3) For security, rehabilitation programs, recreation, and treatment of persons confined in correctional facilities:

The Department of Corrections and Rehabilitation, state and local juvenile justice commissions, state and local correctional officials, experts in criminology and penology, and other interested persons.

(4) For personnel training:

The Commission on Peace Officer Standards and Training, psychiatrists, experts in criminology and penology, the Department of Corrections and Rehabilitation, state and local correctional officials, and other interested persons.

SEC. 60. Section 6050 of the Penal Code is amended to read:

6050. (a) The Governor, upon recommendation of the secretary, shall appoint the wardens of the various state prisons. Each warden shall be subject to removal by the secretary. If the secretary removes him or her, the secretary's action shall be final. The wardens shall be exempt from civil service.

(b) The Department of Personnel Administration shall fix the compensation of the wardens of the state prisons.

SEC. 61. Section 6126 of the Penal Code is amended to read:

6126. (a) (1) The Inspector General shall review departmental policy and procedures, conduct audits of investigatory practices and other audits, and conduct investigations of the Department of Corrections and Rehabilitation, as requested by either the Secretary of the Department of Corrections and Rehabilitation or a Member of the Legislature, pursuant to the approval of the Inspector General under policies to be developed by the Inspector General. The Inspector General may, under policies developed by the Inspector General, initiate an investigation or an audit on his or her own accord.

(2) The Inspector General shall audit each warden of an institution one year after his or her appointment, and shall audit each correctional institution at least once every four years. These audit reports shall be provided to the Legislature and shall be made public. The requirements of this paragraph shall be phased in by the Inspector General so that they are fully met by July 1, 2009.

(b) Upon completion of an investigation or audit, the Inspector General shall provide a response to the requester.

(c) The Inspector General shall, during the course of an investigatory audit, identify areas of full and partial compliance, or noncompliance, with departmental investigatory policies and procedures, specify deficiencies in the completion and documentation of investigatory processes, and recommend corrective actions, including, but not limited to, additional training with respect to investigative policies, additional policies, or changes in policy, as well as any other findings or recommendations that the Inspector General deems appropriate.

(d) The Inspector General, pursuant to Section 6126.6, shall review the Governor's candidates for appointment to serve as warden for the state's adult correctional institutions.

(e) The Inspector General shall, in consultation with the Department of Finance, develop a methodology for producing a workload budget to be used for annually adjusting the budget of the office of the Inspector General, beginning with the budget for the 2005-06 fiscal year.

SEC. 62. Section 6126.3 of the Penal Code is amended to read:

6126.3. (a) The Inspector General shall not destroy any papers or memoranda used to support a completed audit within three years after a report is released.

(b) Except as provided in subdivision (c), all books, papers, records, and correspondence of the office pertaining to its work are public records subject to Chapter 3.5 (commencing with Section 6250) of Division 7 of

Title 1 of the Government Code and shall be filed at any of the regularly maintained offices of the Inspector General.

(c) The following books, papers, records, and correspondence of the office of the Inspector General pertaining to its work are not public records subject to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, nor shall they be subject to discovery pursuant to any provision of Title 3 (commencing with Section 1985) of Part 4 of the Code of Civil Procedure in any manner:

(1) All reports, papers, correspondence, memoranda, electronic communications, or other documents that are otherwise exempt from disclosure pursuant to the provisions of subdivision (d) of Section 6126.5, Section 6126.6, subdivision (c) of Section 6128, subdivision (a) or (b) of Section 6131, or all other applicable laws regarding confidentiality, including, but not limited to, the California Public Records Act, the Public Safety Officers' Procedural Bill of Rights, the Information Practices Act of 1977, the Confidentiality of Medical Information Act of 1977, and the provisions of Section 832.7, relating to the disposition notification for complaints against peace officers.

(2) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to any audit or investigation that has not been completed.

(3) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to internal discussions between the Inspector General and his or her staff, or between staff members of the Inspector General, or any personal notes of the Inspector General or his or her staff.

(4) All identifying information, and any personal papers or correspondence from any person requesting assistance from the Inspector General, except in those cases where the Inspector General determines that disclosure of the information is necessary in the interests of justice.

SEC. 63. Section 6126.6 is added to the Penal Code, to read:

6126.6. (a) Prior to filling a vacancy for warden by appointment pursuant to Section 6050, the Governor shall first submit to the Inspector General the names of candidates for the position of warden for review of their qualifications.

(b) Upon receipt of the names of those candidates and their completed personal data questionnaires, the Inspector General shall employ appropriate confidential procedures to evaluate and determine the qualifications of each candidate with regard to his or her ability to discharge the duties of the office to which the appointment or nomination is made.

Within 90 days of submission by the Governor of those names, the Inspector General shall advise in confidence to the Governor his or her recommendation whether the candidate is exceptionally well-qualified, well-qualified, qualified, or not qualified and the reasons therefore, and may report, in confidence, any other information that the Inspector General deems pertinent to the qualifications of the candidate.

(c) In reviewing the qualifications of a candidate for the position of warden, the Inspector General shall consider, among other appropriate factors, his or her experience in effectively managing correctional facilities and inmate populations; ability to deal effectively with employees, detained persons and other interested persons in addressing management, confinement, and safety issues in an effective, fair, and professional manner; and knowledge of correctional best practices.

(d) The Inspector General shall establish and adopt rules and procedures regarding the review of the qualifications of candidates for the position of warden. Those rules and procedures shall establish appropriate, confidential methods for disclosing to the candidate the subject matter of substantial and credible adverse allegations received regarding the candidate's reputation and integrity which, unless rebutted, would be determinative of the candidate's unsuitability for appointment. No rule or procedure shall be adopted that permits the disclosure to the candidate of information from which the candidate may infer the source, and no information shall either be disclosed to the candidate nor be obtainable by any process which would jeopardize the confidentiality of communications from persons whose opinion has been sought on the candidate's qualifications.

(e) All communications, written, verbal or otherwise, of and to the Governor, the Governor's authorized agents or employees, including, but not limited to, the Governor's Legal Affairs Secretary and Appointments Secretary, or of and to the Inspector General in furtherance of the purposes of this section are absolutely privileged from disclosure and confidential, and any communication made in the discretion of the Governor or the Inspector General with a candidate or person providing information in furtherance of the purposes of this section shall not constitute a waiver of the privilege or a breach of confidentiality.

(f) When the Governor has appointed a person to the position of warden who has been found not qualified by the Inspector General, the Inspector General shall make public that finding, after due notice to the appointee of his or her intention to do so. That notice and disclosure shall not constitute a waiver of privilege or breach of confidentiality with respect to communications of or to the Inspector General concerning the qualifications of the appointee.

(g) No person or entity shall be liable for any injury caused by any act or failure to act, be it negligent, intentional, discretionary, or otherwise, in the furtherance of the purposes of this section, including, but not limited to, providing or receiving any information, making any recommendations, and giving any reasons therefore.

(h) As used in this section, the term "Inspector General" includes employees and agents of the Office of the Inspector General.

(i) At any time prior to the receipt of the review from the Inspector General specified in subdivision (b), the Governor may withdraw the name of any person submitted to the Inspector General for evaluation pursuant to this section.

(j) No candidate for the position of warden may be appointed until the Inspector General has advised the Governor pursuant to this section, or until 90 days have elapsed after submission of the candidate's name to the Inspector General, whichever occurs earlier. The requirement of this subdivision shall not apply to any vacancy in the position of warden occurring within the 90 days preceding the expiration of the Governor's term of office, provided, however, that with respect to those vacancies, the Governor shall be required to submit any candidate's name to the Inspector General in order to provide him or her an opportunity, if time permits, to review and make a report.

(k) Nothing in this section shall be construed as imposing an additional requirement for an appointment or nomination to the position of warden, nor shall anything in this section be construed as adding any additional qualifications for the position of warden.

(l) Wardens who have been appointed but not yet confirmed as of July 1, 2005, need not be reappointed to the position after that date, but are subject to the review process provided in this section.

SEC. 64. Section 7518 of the Penal Code is amended to read:

7518. (a) The Department of Corrections and Rehabilitation and local health officers shall adopt guidelines for the making of decisions pursuant to this chapter in consultation with the Office of AIDS in the State Department of Health Services. The guidelines shall be based on the latest written guidelines of HIV transmission and infection established by the federal Centers for Disease Control and Prevention.

(b) Oversight responsibility for implementation of the applicable provisions of this title, including the oversight of reports involving parole officers and the staff of state adult and youth correctional facilities shall be vested with the Chief of Medical Services in the Department of Corrections and Rehabilitation.

Oversight responsibility at the county, the city, or the county and city level shall rest with the local health officer.

SEC. 65. The heading of Title 4.5 (commencing with Section 13600) of Part 4 of the Penal Code is amended to read:

TITLE 4.5. CORRECTIONS STANDARDS AUTHORITY

SEC. 66. Section 13600 of the Penal Code is amended to read:

13600. (a) Commencing July 1, 2005, any reference to the Commission on Correctional Peace Officer Standards and Training or "CPOST" shall refer to the Corrections Standards Authority established pursuant to Chapter 5 (commencing with Section 6024) of Title 7 of Part 3. As of that date, the Commission on Correctional Peace Officer Standards and Training is abolished.

(b) The Legislature finds and declares that peace officers of the state correctional system, including youth and adult correctional facilities, fulfill responsibilities that require creation and application of sound selection

criteria for applicants and standards for their training prior to assuming their duties. For the purposes of this section, correctional peace officers are peace officers as defined in Section 830.5 and employed or designated by the Department of Corrections and Rehabilitation.

The Legislature further finds that sound applicant selection and training are essential to public safety and in carrying out the missions of the Department of Corrections and Rehabilitation in the custody and care of the state's offender population. The greater degree of professionalism which will result from sound screening criteria and a significant training curriculum will greatly aid the department in maintaining smooth, efficient, and safe operations and effective programs in the department.

(c) The Secretary of the Department of Corrections and Rehabilitation shall, with advice from the Corrections Standards Authority, appoint a subordinate officer to serve as executive director of the board. The subordinate officer shall serve at the pleasure of the secretary. The subordinate officer shall appoint staff as provided for in the annual Budget Act, beginning in the 2005-06 fiscal year.

SEC. 67. Section 13601 of the Penal Code is amended to read:

13601. (a) The Corrections Standards Authority shall develop, approve, and monitor standards for the selection and training of state correctional peace officer apprentices. Any standard for selection established under this subdivision shall be subject to approval by the State Personnel Board. Using the psychological and screening standards established by the State Personnel Board, the State Personnel Board or the Department of Corrections and Rehabilitation, Division of Juvenile Facilities shall ensure that, prior to training, each applicant who has otherwise qualified in all physical and other testing requirements to be a peace officer in either a youth or adult correctional facility, is determined to be free from emotional or mental conditions that might adversely affect the exercise of his or her duties and powers as a peace officer.

(b) The authority may approve standards for a course in the carrying and use of firearms for correctional peace officers that is different from that prescribed pursuant to Section 832. The standards shall take into consideration the different circumstances presented within the institutional setting from that presented to other law enforcement agencies outside the correctional setting.

(c) Notwithstanding Section 3078 of the Labor Code, the length of the probationary period for correctional peace officer apprentices shall be determined by the authority subject to approval by the State Personnel Board, pursuant to Section 19170 of the Government Code.

(d) The authority shall develop, approve, and monitor standards for advanced rank-and-file and supervisory state correctional peace officer and training programs for the Department of Corrections and Rehabilitation. When a correctional peace officer is promoted within the department, he or she shall be provided with and be required to complete these secondary training experiences.

(e) The authority shall develop, approve, and monitor standards for the training of state correctional peace officers in the department in the handling of stress associated with their duties.

(f) Toward the accomplishment of the objectives of this act, the authority may confer with, and may avail itself of the assistance and recommendations of, other state and local agencies, boards, or commissions.

(g) Notwithstanding the authority of the authority, the department shall design and deliver training programs, shall conduct validation studies, and shall provide program support. The authority shall monitor program compliance by the department.

(h) The authority may disapprove any training courses created by the department pursuant to the standards developed by the authority if it determines that the courses do not meet the prescribed standards.

(i) The authority shall annually submit an estimate of costs to conduct those inquiries and audits as may be necessary to determine whether the department and each of its institutions and parole regions are adhering to the standards developed by the authority, and shall conduct those inquiries and audits consistent with the annual Budget Act.

(j) The authority shall establish and implement procedures for reviewing and issuing decisions concerning complaints or recommendations from interested parties regarding authority rules, regulations, standards, or decisions.

SEC. 68. Section 13602 of the Penal Code is amended to read:

13602. (a) The Department of Corrections and Rehabilitation may use the training academy at Galt or the training center in Stockton. The academy at Galt shall be known as the Richard A. McGee Academy. The training divisions, in using the funds, shall endeavor to minimize costs of administration so that a maximum amount of the funds will be used for providing training and support to correctional peace officers while being trained by the department.

(b) Each new cadet who attends an academy shall complete the course of training, pursuant to standards approved by the Corrections Standards Authority before he or she may be assigned to a post or job as a peace officer. Every newly appointed first-line or second-line supervisor in the Department of Corrections and Rehabilitation shall complete the course of training, pursuant to standards approved by the authority for that position.

(c) The Department of Corrections and Rehabilitation shall make every effort to provide training prior to commencement of supervisory duties. If this training is not completed within six months of appointment to that position, any first-line or second-line supervisor shall not perform supervisory duties until the training is completed.

SEC. 69. Section 13603 of the Penal Code is amended to read:

13603. (a) The Department of Corrections and Rehabilitation shall provide 16 weeks of training to each correctional peace officer cadet. Except as provided by subdivision (b), this training shall be completed by

the cadet prior to his or her assignment to a post or position as a correctional peace officer.

(b) If an agreement is reached between the department and the bargaining unit for the correctional peace officers that this subdivision shall apply, and with the approval of the Corrections Standards Authority on how to implement the on-the-job training requirements of the subdivision, the department shall provide a total of 16 weeks of training to each correctional peace officer cadet as follows:

(1) Twelve weeks of the training shall be at the department's training academy. Cadets shall be sworn in as correctional peace officers upon the completion of this initial 12 weeks.

(2) Four weeks shall be at the institution where the cadet is assigned to a post or position.

(c) The department shall provide a minimum of two weeks of training to each newly appointed first-line supervisor.

(d) Training standards previously established pursuant to this section shall remain in effect until training requirements are established by the Corrections Standards Authority pursuant to Section 13602.

SEC. 70. Section 13810 of the Penal Code is amended to read:

13810. There is hereby created in the state government the California Council on Criminal Justice, which shall be composed of the following members: the Attorney General; the Administrative Director of the Courts; 19 members appointed by the Governor, including the Commissioner of the Department of the Highway Patrol, the Secretary of the Department of Corrections and Rehabilitation, or his or her designee, a subordinate officer of the Secretary of Corrections and Rehabilitation, and the State Public Defender; eight members appointed by the Senate Rules Committee; and eight members appointed by the Speaker of the Assembly.

The remaining appointees of the Governor shall include different persons from each of the following categories: a district attorney, a sheriff, a county public defender, a county probation officer, a member of a city council, a member of a county board of supervisors, a faculty member of a college or university qualified in the field of criminology, police science, or law, a person qualified in the field of criminal justice research and six private citizens, including a representative of a citizens, professional, or community organization. The Senate Committee on Rules shall include among its appointments different persons from each of the following categories: a member of the Senate Public Safety Committee, a representative of the counties, a representative of the cities, a judge designated by the Judicial Council, and four private citizens, including a representative of a citizens, professional, or community organization. The Speaker of the Assembly shall include among his appointments different persons from each of the following categories: a representative of the counties, a representative of the cities, a member of the Assembly Committee on Public Safety, a chief of police, a peace officer, and three private citizens, including a representative of a citizens, professional, or community organization directly related to delinquency prevention.

The Governor shall select a chairman from among the members of the council.

SEC. 71. Section 14204 of the Penal Code is amended to read:

14204. The Attorney General shall provide training on the services provided by the center to line personnel, supervisors, and investigators in the following fields: law enforcement, district attorneys' offices, the Department of Corrections and Rehabilitation, probation departments, court mediation services, and the judiciary. The Corrections Standards Authority shall provide for the presentation of training to peace officers which will enable them to more efficiently handle, on the local level, the tracing of missing persons and victims of violent crimes.

SEC. 72. Section 1000 of the Welfare and Institutions Code is amended to read:

1000. Commencing July 1, 2005, any reference to the Department of the Youth Authority refers to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, which has jurisdiction over all educational training and treatment institutions now or hereafter established and maintained in the state as correctional schools for the reception of wards of the juvenile court and other persons committed to the department.

SEC. 73. Section 1703 of the Welfare and Institutions Code is amended to read:

1703. Commencing July 1, 2005, as used in this chapter the following terms have the following meanings:

(a) "Public offenses" means public offenses as that term is defined in the Penal Code.

(b) "Court" includes any official authorized to impose sentence for a public offense.

(c) "Youth Authority," "Authority," "authority," or "division" means the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(d) "Board" or "board" means the Board of Parole Hearings, until January 1, 2007, at which time "board" shall refer to the body created to hear juvenile parole matters under the jurisdiction of the Chief Deputy Secretary for Juvenile Justice in the Department of Corrections and Rehabilitation.

(e) The masculine pronoun includes the feminine.

SEC. 74. Section 1710 of the Welfare and Institutions Code is amended to read:

1710. (a) Commencing July 1, 2005, any reference to the Department of the Youth Authority in this or any other code refers to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.

(b) The Legislature finds and declares the following:

(1) The purpose of the Division of Juvenile Facilities within the Department of Corrections and Rehabilitation is to protect society from the consequences of criminal activity by providing for the secure custody of wards, and to effectively and efficiently operate and manage facilities

housing youthful offenders under the jurisdiction of the department, consistent with the purposes set forth in Section 1700.

(2) The purpose of the Division of Juvenile Programs within the Department of Corrections and Rehabilitation is to provide comprehensive training, treatment, and rehabilitative services to youthful offenders under the jurisdiction of the department, that are designed to promote community restoration, accountability to victims and to produce youth who become law-abiding and productive members of society, consistent with the purposes set forth in Section 202.

(3) The purpose of the Division of Juvenile Parole Operations within the Department of Corrections and Rehabilitation is to monitor and supervise the reentry into society of youthful offenders under the jurisdiction of the department, and to promote the successful reintegration of youthful offenders into society, in order to reduce the rate of recidivism, thereby increasing public safety.

SEC. 75. Section 1711 of the Welfare and Institutions Code is amended to read:

1711. Commencing July 1, 2005, any reference to the Director of the Youth Authority shall be to the Chief Deputy Secretary for Juvenile Justice in the Department of Corrections and Rehabilitation, unless otherwise expressly provided.

SEC. 76. Section 1712 of the Welfare and Institutions Code is amended to read:

1712. (a) All powers, duties, and functions pertaining to the care and treatment of wards provided by any provision of law and not specifically and expressly assigned to the Juvenile Justice branch of the Department of Corrections and Rehabilitation, or to the Board of Parole Hearings, shall be exercised and performed by the Secretary of the Department of Corrections and Rehabilitation. The secretary shall be the appointing authority for all civil service positions of employment in the department. The secretary may delegate the powers and duties vested in him or her by law, in accordance with Section 7.

(b) Commencing July 1, 2005, the secretary is authorized to make and enforce all rules appropriate to the proper accomplishment of the functions of the Division of Juvenile Facilities, Division of Juvenile Programs, and Division of Juvenile Parole Operations. The rules shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(c) The secretary shall maintain, publish, and make available to the general public, a compendium of rules and regulations promulgated by the department pursuant to this section.

(d) The following exceptions to the procedures specified in this section shall apply to the department:

(1) The department may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State;

provided that no less than 20 days prior to that effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

(2) The department may rely upon a summary of the information compiled by a hearing officer; provided that the summary and the testimony taken regarding the proposed action shall be retained as part of the public record for at least one year after the adoption, amendment, or repeal.

SEC. 77. Section 1713 of the Welfare and Institutions Code is amended to read:

1713. (a) The Chief Deputy Secretary for Juvenile Justice in the Department of Corrections and Rehabilitation shall have wide and successful administrative experience in youth or adult correctional programs embodying rehabilitative or delinquency prevention concepts.

(b) The Governor may request the State Personnel Board to use extensive recruitment and merit selection techniques and procedures to provide a list of persons qualified for appointment as that subordinate officer. The Governor may appoint any person from such list of qualified persons or may reject all names and appoint another person who meets the requirements of this section.

SEC. 78. Section 1714 of the Welfare and Institutions Code is amended to read:

1714. The Secretary of the Department of Corrections and Rehabilitation may transfer persons confined in one institution or facility of the Division of Juvenile Facilities to another.

SEC. 79. Section 1716 of the Welfare and Institutions Code is amended to read:

1716. Commencing July 1, 2005, any reference to the Youth Authority Board refers to the Board of Parole Hearings. As of that date, the Youth Authority Board is abolished.

SEC. 80. Section 1717 of the Welfare and Institutions Code is repealed.

SEC. 81. Section 1718 of the Welfare and Institutions Code is repealed.

SEC. 82. Section 1719 of the Welfare and Institutions Code is amended to read:

1719. (a) Commencing July 1, 2005, the following powers and duties shall be exercised and performed by the Board of Parole Hearings: discharges of commitment, orders to parole and conditions thereof, revocation or suspension of parole, and disciplinary appeals.

(b) Any ward may appeal an adjustment to his or her parole consideration date to a panel comprised of at least two commissioners.

(c) The following powers and duties shall be exercised and performed by the Division of Juvenile Facilities: return of persons to the court of commitment for redispotion by the court, determination of offense category, setting of parole consideration dates, conducting annual reviews,

treatment program orders, institution placements, furlough placements, return of nonresident persons to the jurisdiction of the state of legal residence, disciplinary decisionmaking, and referrals pursuant to Section 1800.

(d) The department shall promulgate policies and regulations implementing a departmentwide system of graduated sanctions for addressing ward disciplinary matters. The disciplinary decisionmaking system shall be employed as the disciplinary system in facilities under the jurisdiction of the Division of Juvenile Facilities, and shall provide a framework for handling disciplinary matters in a manner that is consistent, timely, proportionate, and ensures the due process rights of wards. The department shall develop and implement a system of graduated sanctions which distinguishes between minor, intermediate, and serious misconduct. The department may extend a ward's parole consideration date, subject to appeal pursuant to subdivision (b), from one to not more than 12 months, inclusive, for a sustained serious misconduct violation if all other sanctioning options have been considered and determined to be unsuitable in light of the ward's previous case history and the circumstances of the misconduct. In any case in which a parole consideration date has been extended, the disposition report shall clearly state the reasons for the extension. The length of any parole consideration date extension shall be based on the seriousness of the misconduct, the ward's prior disciplinary history, the ward's progress toward treatment objectives, the ward's earned program credits, and any extenuating or mitigating circumstances. The department shall promulgate regulations to implement a table of sanctions to be used in determining parole consideration date extensions. The department also may promulgate regulations to establish a process for granting wards who have successfully responded to disciplinary sanctions a reduction of up to 50 percent of any time acquired for disciplinary matters.

SEC. 83. Section 1720 of the Welfare and Institutions Code is amended to read:

1720. (a) The case of each ward shall be reviewed by the department within 45 days of arrival at the department, and at other times as is necessary to meet the powers or duties of the board.

(b) The Division of Juvenile Facilities shall periodically review the case of each ward for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. These reviews shall be made as frequently as the department considers desirable and shall be made with respect to each ward at intervals not exceeding one year.

(c) The ward shall be entitled to notice if his or her annual review is delayed beyond one year after the previous annual review hearing. The ward shall be informed of the reason for the delay and of the date the review hearing is to be held.

(d) Failure of the division to review the case of a ward within 15 months of a previous review shall not of itself entitle the ward to discharge

from the control of the division but shall entitle him or her to petition the superior court of the county from which he or she was committed for an order of discharge, and the court shall discharge him or her unless the court is satisfied as to the need for further control.

(e) Reviews conducted by the division pursuant to this section shall be written and shall include, but not be limited to, the following: verification of the treatment or program goals and orders for the ward to ensure the ward is receiving treatment and programming that is narrowly tailored to address the correctional treatment needs of the ward and is being provided in a timely manner that is designed to meet the parole consideration date set for the ward; an assessment of the ward's adjustment and responsiveness to treatment, programming, and custody; a review of the ward's disciplinary history and response to disciplinary sanctions; an updated individualized treatment plan for the ward that makes adjustments based on the review required by this subdivision; an estimated timeframe for the ward's commencement and completion of the treatment programs or services; and a review of any additional information relevant to the ward's progress.

(f) The division shall provide copies of the reviews prepared pursuant to this section to the court and the probation department of the committing county.

SEC. 84. Section 1721 of the Welfare and Institutions Code is repealed.

SEC. 85. Section 1722 of the Welfare and Institutions Code is repealed.

SEC. 86. Section 1723 of the Welfare and Institutions Code is amended to read:

1723. (a) Every order granting or revoking parole or issuing final discharges to any person under the jurisdiction of the division shall be made by the board or its designee, as authorized by this article.

(b) All other powers conferred to the board concerning wards under the jurisdiction of the division may be exercised through subordinates or delegated to the division under rules established by the board. Any person subjected to an order of those subordinates or of the division pursuant to that delegation may petition the board for review. The board may review those orders under appropriate rules and regulations.

(c) All board designees shall be subject to the training required pursuant to Section 5075.6 of the Penal Code.

SEC. 87. Section 1725 of the Welfare and Institutions Code is amended to read:

1725. (a) Commencing July 1, 2005, the Board of Parole Hearings shall succeed, and shall exercise and perform all powers and duties previously granted to, exercised by, and imposed upon the Youthful Offender Parole Board and Youth Authority Board, as authorized by this article. The Youthful Offender Parole Board and Youth Authority Board are abolished.

(b) Commencing January 1, 2007, all commissioners appointed and trained to hear juvenile parole matters, together with their duties prescribed by law as functions of the Board of Parole Hearings concerning wards under the jurisdiction of the Department of Corrections and Rehabilitation, are transferred to the Chief Deputy Secretary for Juvenile Justice.

SEC. 88. Section 1766 of the Welfare and Institutions Code is amended to read:

1766. (a) When a person has been committed to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, the Board of Parole Hearings may, according to standardized review and appeal procedures established by the board in policy and regulation and subject to the powers and duties enumerated in subdivision (a) of Section 1719 do any of the following:

(1) Permit the ward his or her liberty under supervision and upon conditions it believes are best designed for the protection of the public.

(2) Order his or her confinement under conditions it believes best designed for the protection of the public pursuant to the purposes set forth in Section 1700, except that a person committed to the division pursuant to Sections 731 or 1731.5 may not be held in physical confinement for a total period of time in excess of the maximum periods of time set forth in Section 731. Nothing in this subdivision limits the power of the board to retain the minor or the young adult on parole status for the period permitted by Sections 1769, 1770, and 1771.

(3) Order reconfinement or renewed release under supervision as often as conditions indicate to be desirable.

(4) Revoke or modify any parole or disciplinary appeal order.

(5) Modify an order of discharge if conditions indicate that such modification is desirable and when that modification is to the benefit of the person committed to the division.

(6) Discharge him or her from its control when it is satisfied that discharge is consistent with the protection of the public.

(b) Within 60 days of intake, the division shall provide the court and the probation department with a treatment plan for the ward.

(c) A ward shall be entitled to an appearance hearing before a panel of board commissioners for any action that would result in the extension of a parole consideration date pursuant to subdivision (d) of Section 5076.1 of the Penal Code.

(d) The department shall promulgate policies and regulations to implement this section.

(e) Commencing on July 1, 2004, and annually thereafter, for the preceding fiscal year, the department shall collect and make available to the public the following information:

(1) The total number of ward case reviews conducted by the division and the board, categorized by guideline category.

(2) The number of parole consideration dates for each category set at guideline, above guideline, and below guideline.

(3) The number of ward case reviews resulting in a change to a parole consideration date, including the category assigned to the ward, the amount of time added to or subtracted from the parole consideration date, and the specific reason for the change.

(4) The percentage of wards who have had a parole consideration date changed to a later date, the percentage of wards who have had a parole consideration date changed to an earlier date, and the average annual time added or subtracted per case.

(5) The number and percentage of wards who, while confined or on parole, are charged with a new misdemeanor or felony criminal offense.

(6) Any additional data or information identified by the department as relevant.

(f) As used in subdivision (e), the term “ward case review” means any review of a ward that changes, maintains, or appreciably affects the programs, treatment, or placement of a ward.

SEC. 89. Section 1798 of the Welfare and Institutions Code is amended to read:

1798. As of July 1, 2005, the State Commission on Juvenile Justice, Crime and Delinquency Prevention is abolished.

SEC. 90. Section 1798.5 of the Welfare and Institutions Code is repealed.

SEC. 91. Section 1798.5 is added to the Welfare and Institutions Code, to read:

1798.5. (a) Commencing July 1, 2005, there is hereby established within the Department of Corrections and Rehabilitation the State Commission on Juvenile Justice. The commission shall advise the Secretary of the Department of Corrections and Rehabilitation and the Chief Deputy Secretary of Juvenile Justice of the department. The purpose of the commission is to provide comprehensive oversight, planning and coordination of efforts leading to the improvement of juvenile justice among state and local agencies.

(b) The commission shall be composed of 11 members, one of whom shall be the Chief Deputy Secretary of Juvenile Justice for the department, or his or her designee, who shall be designated as the chairperson. One member shall be appointed by the Senate Rules Committee. One member shall be appointed by the Speaker of the Assembly. One member shall be a judge of the juvenile court designated by the chairperson of the Judicial Council. The remaining seven members shall be appointed by the Governor after consultation with, and with the advice of, the secretary of the department, and with the advice and consent of the Senate. The gubernatorial appointments shall include all of the following:

- (1) A chief probation officer.
- (2) A county sheriff.
- (3) A manager or administrator of a county local detention facility for juveniles.
- (4) A rank and file representative from local juvenile corrections.

(5) A representative from a community-based organization serving at-risk youth.

(6) Two members of the public, at least one of whom shall represent the interests of crime victims.

(c) The terms of the members appointed by the Governor shall expire as follows: three on July 1, 2007, and four on July 1, 2008. The terms of the members appointed by the Senate Rules Committee and the Speaker of the Assembly shall expire on July 1, 2008. The term of the member appointed by the Chairperson of the Judicial Council shall expire on July 1, 2007. Successor members shall hold office for terms of three years, each term to commence on the expiration date of the predecessor. Any appointment to a vacancy that occurs for any reason other than expiration of the term shall be for the remainder of the unexpired term. Members are eligible for reappointment.

(d) The commission shall select a vice chairperson from among its members. Six members of the board shall constitute a quorum.

(e) If any member appointed by the Governor is not in attendance for three consecutive meetings the commission may recommend to the Governor that the member be removed and the Governor may make a new appointment, with the advice and consent of the Senate, for the remainder of the term.

SEC. 92. Section 3150 of the Welfare and Institutions Code is amended to read:

3150. Commencing July 1, 2005, any reference to the Narcotic Addict Evaluation Authority refers to the Board of Parole Hearings, any reference to the chairperson of the authority is to the chair of the board, and any reference to a member of the authority is to a commissioner of the board.

(b) The board shall conduct a full and complete study of the cases of all patients who are certified by the Secretary of the Department of Corrections and Rehabilitation to the board as having recovered from addiction or imminent danger of addiction to such an extent that release in an outpatient status is warranted.

(c) Members of other similar boards may be assigned to hear cases and make recommendations to the board on these matters. Those recommendations shall be made in accordance with policies established by a majority of the total membership of the board.

SEC. 93. Section 3151 of the Welfare and Institutions Code is amended to read:

3151. Commencing July 1, 2005, after an initial period of observation and treatment, and subject to the rules and policies established by the secretary, whenever a person committed under Article 2 or Article 3 of this chapter has recovered from his addiction or imminent danger of addiction to such an extent that, in the opinion of the secretary, release in an outpatient status is warranted, the secretary shall certify that fact to the board. If the secretary has not so certified within the preceding 12 months, in the anniversary month of the commitment of any person committed under this chapter his case shall automatically be referred to the board for

consideration of the advisability of release in outpatient status. Upon certification by the secretary or upon automatic certification, the board may release the person in an outpatient status subject to all rules and regulations adopted by the board, and subject to all conditions imposed by the board, whether of general applicability or restricted to the particular person released in outpatient status, and subject to being retaken and returned to inpatient status as prescribed in those rules, regulations, or conditions. The supervision of those persons while in an outpatient status shall be administered by the department. Those persons are not subject to the provisions of Section 2600 of the Penal Code.

A single commissioner of the board may, by written or oral order, suspend the release in outpatient status of a person and cause him or her to be retaken, until the next meeting of the board. The written order of any commissioner shall be a sufficient warrant for any peace officer to return persons to physical custody.

It is the duty of all peace officers to execute any order under this section in the same manner as ordinary criminal process.

SEC. 94. Section 3157 of the Welfare and Institutions Code is repealed.

SEC. 95. Section 3158 of the Welfare and Institutions Code is amended to read:

3158. Notwithstanding Section 11425.10 of the Government Code, Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to a release hearing or other adjudication concerning rights of a person committed to the custody of the secretary by the board.

SEC. 96. Section 3300 of the Welfare and Institutions Code is amended to read:

3300. There is hereby established an institution and branches, under the jurisdiction of the Department of Corrections and Rehabilitation, to be known as the California Rehabilitation Center. Branches may be established in existing institutions of the Department of Corrections and Rehabilitation, Division of Adult Operations, in halfway houses as described in Section 3153, in such other facilities as may be made available on the grounds of other state institutions, and in city and county correctional facilities where treatment facilities are available. Branches shall not be established on the grounds of such other institutions in any manner which will result in the placement of patients of such institutions into inferior facilities. Branches placed in a facility of the State Department of Mental Health shall have prior approval of the Director of Mental Health, and branches placed in a facility of the State Department of Developmental Services shall have the prior approval of the Director of Developmental Services. Commencing July 1, 2005, the branches in the Department of Corrections and Rehabilitation, Division of Juvenile Facilities shall be established by order of the secretary, and shall be subject to his or her administrative direction. Branches placed in city or county

facilities shall have prior approval of the legislative body of the city or county.

Persons confined pursuant to this section in branches established in city and county correctional facilities shall be housed separately from the prisoners therein, and shall be entitled to receive treatment substantially equal to that which would be afforded those persons if confined in the main institution of the California Rehabilitation Center.

SEC. 97. Section 3309 of the Welfare and Institutions Code is amended to read:

3309. Commencing July 1, 2005, the Secretary of the Department of Corrections and Rehabilitation shall make rules and regulations for the government of the community correctional centers in the management of their affairs.

SEC. 98. Section 48 of Governor's Reorganization Plan No. 1, as submitted to the Legislature on February 22, 2005, is not operative.

SEC. 99. This act shall become operative only if the Governor's Reorganization Plan No. 1 becomes effective. This measure shall become operative as of July 1, 2005. However, in order to facilitate a smooth transition to the operations of the newly reorganized department, the Secretary of the Department of Corrections and Rehabilitation shall retain and exercise authority over all operations of all divisions of the department until January 1, 2006.

SEC. 100. It is the intent of the Legislature that the changes made in this act supplement and refine the changes proposed by Governor's Reorganization Plan No. 1, as submitted to the Legislature on February 22, 2005, and to the extent that any conflicts exist between this act and that measure, the changes made in this act shall prevail.

SEC. 101. (a) It is the intent of the Legislature that nothing in this act shall compromise public safety or cause public safety to become subordinate to economic or other interests.

(b) It is the intent of the Legislature that any expansion of rehabilitation programs by this act shall not change the public safety objective, nor shall the creation of new education, rehabilitation, or parole programs or alternatives pursuant to this act be construed to create new entitlements.

(c) It is the intent of the Legislature that this act is not designed to create new programs that are alternatives to incarceration. Any additional programs should be evidence-based, result-oriented and subject to periodic review.

SEC. 102. The program budget structures for the Department of Corrections and Rehabilitation shall not go into effect until a process for making a transition to a new program budget structure is approved by the Legislature in the Budget Act of 2005 or in any budget implementing legislation necessary to enact statutory changes relating to the Budget Act of 2005, and the program budget structures are approved by the Legislature consistent with the approved process or legislation for transition.

SEC. 103. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that Governor's Reorganization Plan No. 1 will be effectively and efficiently implemented, it is necessary that this act take effect immediately.

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