

★ ★ ★ ★ ★ **TEXT OF PROPOSED LAWS** ★ ★ ★ ★ ★

California General Election

Tuesday, November 3, 2020

Polls Are Open From 7:00 a.m. to 8:00 p.m. on Election Day!



VOTE SAFE

C A L I F O R N I A



Certificate of Correctness

I, Alex Padilla, Secretary of State of the State of California, do hereby certify that the measures included herein will be submitted to the electors of the State of California at the General Election to be held throughout the State on November 3, 2020, and that this guide has been correctly prepared in accordance with the law. Witness my hand and the Great Seal of the State in Sacramento, California, this 10th day of August, 2020.

Alex Padilla, Secretary of State

VOTER BILL OF RIGHTS

YOU HAVE THE FOLLOWING RIGHTS:

- 1** **The right to vote if you are a registered voter.** You are eligible to vote if you are:
 - a U.S. citizen living in California
 - at least 18 years old
 - registered where you currently live
 - not currently in state or federal prison or on parole for the conviction of a felony
 - not currently found mentally incompetent to vote by a court
- 2** **The right to vote if you are a registered voter even if your name is not on the list.** You will vote using a provisional ballot. Your vote will be counted if elections officials determine that you are eligible to vote.
- 3** **The right to vote if you are still in line when the polls close.**
- 4** **The right to cast a secret ballot** without anyone bothering you or telling you how to vote.
- 5** **The right to get a new ballot if you have made a mistake,** if you have not already cast your ballot. You can:
 - Ask an elections official at a polling place** for a new ballot,
 - Exchange your vote-by-mail ballot** for a new one at an elections office or at your polling place, or
 - Vote using a provisional ballot.**
- 6** **The right to get help casting your ballot** from anyone you choose, except from your employer or union representative.
- 7** **The right to drop off your completed vote-by-mail ballot at any polling place** in California.
- 8** **The right to get election materials in a language other than English** if enough people in your voting precinct speak that language.
- 9** **The right to ask questions to elections officials about election procedures** and watch the election process. If the person you ask cannot answer your questions, they must send you to the right person for an answer. If you are disruptive, they can stop answering you.
- 10** **The right to report any illegal or fraudulent election activity** to an elections official or the Secretary of State's office.
 -  On the web at www.sos.ca.gov
 -  By phone at **(800) 345-VOTE (8683)**
 -  By email at elections@sos.ca.gov

**IF YOU BELIEVE YOU HAVE BEEN DENIED ANY OF THESE RIGHTS, CALL THE SECRETARY OF STATE'S
CONFIDENTIAL TOLL-FREE VOTER HOTLINE AT (800) 345-VOTE (8683).**

PROPOSITION 15

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the California Constitution; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This measure shall be known as “The California Schools and Local Communities Funding Act of 2020.”

SEC. 2. Findings.

(a) California is the fifth largest economy in the world, but if we don’t invest in our future, we’ll fall behind. To grow our economy and provide a better quality of life now, and for future generations of Californians, we need to do a better job of investing in our schools, community colleges, and local communities, and do more to encourage small businesses and start-ups.

(b) Our competitiveness begins with making children and their education a priority. Decades of cuts and underfunding have undermined California schools. A recent national study ranked the performance of California schools in the bottom half of all states. The top ranked states spend thousands of dollars more per student than California.

(c) California’s funding shortfall has direct consequences for our kids: we’re dead last in the nation in teacher-to-student ratios, last in guidance counselor-to-student ratios, and last in librarian-to-student ratios.

(d) The quality of life in our local communities is also critical to our economic future. It depends on streets that are safe and clean, emergency services we can count on, parks and recreation programs that keep our youth off the streets, and roads that are well maintained. Our cities, counties, and local agencies are on the front line facing the consequences of the lack of affordable housing and increasing homelessness as well as worsening risks from wildfires and other disasters.

(e) Property taxes on commercial and industrial properties are a principal source of funding for our schools and local communities. While virtually every other state assesses commercial and industrial property based on its fair market value, California allows commercial and industrial property taxes to go many years, even decades, without reassessment. This unusual system is prone to abusive tax avoidance schemes, diverts funds away from schools and local communities, contributes to the shortage of affordable

housing, distorts business competition, and disadvantages business start-ups.

(f) California’s under-assessment of commercial and industrial properties is a growing problem. Large investors and corporations, many of whom are from other states and countries, are using a variety of schemes to get around the law and buy and sell properties without being reassessed, costing our schools and local communities billions of dollars.

(g) A recent study by the University of Southern California has found that under-assessed commercial and industrial property allows owners to avoid over \$11 billion in local property taxes each year that should be going to support our schools and local communities.

(h) California’s unusual commercial and industrial property tax system contributes to California’s affordable housing crisis. Studies by the Legislative Analyst’s Office and the University of California have demonstrated that California’s property tax system incentivizes owners to hold idle vacant and under-utilized commercial and industrial property. A reformed system, that assesses all properties based on their fair market value, would create a powerful new incentive to build new housing.

(i) Every commercial and industrial property owner benefits from local schools and services like public safety and infrastructure. It is unfair and anti-competitive that the property tax system forces some businesses to pay higher property taxes to support our schools and local communities while their competitors pay much lower property taxes because their properties are assessed far below their fair market value.

(j) California’s unusual property tax system not only distorts competition, it discourages business investments. Under the current system, businesses that invest in improving their properties trigger reassessment and higher property taxes. But businesses that don’t invest in improving their properties continue to enjoy the low cost of under assessment.

(k) A study done at the University of California demonstrates that reassessing commercial property will have a net positive benefit on jobs and the California economy.

(l) If we reformed California’s under-assessment problem on business properties, California would still rank among the lowest states for business property taxes in the nation because of the California Constitution’s provisions related to the 1% limitation on property tax rates.

(m) Thriving small businesses and start-ups are essential to California’s economy now and for our future. The property tax on equipment and fixtures discourages new start-ups, small businesses and larger businesses from making new productive

investments. By requiring under-assessed large properties to be assessed at fair market value, small businesses can be fully exempted from the property tax on equipment and fixtures and the tax can be substantially reduced for other businesses, removing this disincentive without harm to funding for our schools and local communities.

(n) Reassessing under-assessed commercial and industrial property in California would primarily impact a small number of properties owned by the largest corporations and wealthiest investors. Almost 80 percent of the tax benefits of the under-assessment allowed by the current system go to just 8 percent of the properties.

(o) The benefits to our schools, local communities, and economy resulting from ending the under-assessment of commercial and industrial property can be achieved while protecting small businesses through exemptions and deferrals of reassessment and at the same time encouraging small businesses by creating a more level playing field and by eliminating the property tax on business equipment and fixtures.

(p) Reforming commercial and industrial property assessments to fair market value will result in a fairer system for our schools, our local communities, and our businesses. All businesses will compete on a level playing field, generating billions of dollars in additional support for our schools and local communities.

SEC. 3. Purpose and Intent.

It is the intent of the people of the State of California to do all of the following in this measure:

(a) Preserve in every way Proposition 13's protections for homeowners and for residential rental properties. This measure only affects the assessment of taxable commercial and industrial property.

(b) Provide for increased and stable revenues for schools, cities, counties, and other local agencies by requiring under-assessed commercial and industrial properties to be assessed based on their fair market value.

(c) Distribute the new revenues resulting from this measure to schools and local communities, not to the state.

(d) Ensure that the portion of any new revenues going to local schools and community colleges as a result of this measure is treated as new revenues that are in addition to all other funding for schools and community colleges, including Proposition 98.

(e) Guarantee every school district and community college will receive additional funding from this measure and that funds going to schools and community colleges are allocated in a manner that is consistent with local control funding formulas intended to advance equity.

(f) Ensure that any new revenues going to cities, counties, and special districts as a result of this measure will be allocated in the same manner as other property tax revenues, consistent with prior ballot measures approved by voters, to improve the quality of life in local communities in all parts of California.

(g) Make certain there is complete public transparency by requiring schools, community colleges, cities, counties, and special districts to publicly disclose the new revenues they receive and how those revenues are spent in a manner that is widely available and easily understood.

(h) Be very clear that this measure only applies to taxable commercial and industrial real property by including provisions stating that:

(1) All residential property is exempt so homeowners and renters will not be affected in any way by this measure.

(2) This measure makes no change to existing laws affecting the taxation or preservation of agricultural land.

(i) Make no change to Proposition 13's constitutional provisions relating to the 1 percent limitation on property tax rates for all taxable real property so local property taxes on commercial and industrial property will continue to be among the lowest in the country after this measure is approved by voters.

(j) Ensure stability for owners of small business properties by providing an exclusion for small commercial and industrial real property owners. The intent of this provision is to provide an exclusion that applies only to the true owners of small businesses and that large property owners shall be prevented from using the exclusion for their own benefit.

(k) Defer reassessments for properties in which small businesses account for 50 percent or more of the occupied space until the 2025–26 lien date to provide those small business tenants additional time to choose the leasing option that works for them, recognizing that the impact of this measure will be different for each property, depending on how close the current assessment is to the fair market value and whether or not it qualifies for the small property exclusion for properties with a fair market value of \$3 million or less.

(l) Encourage new and existing businesses to make new investments by eliminating the business tangible personal property tax on equipment and fixtures for small businesses and providing a \$500,000 per year exemption for all other businesses. The Legislature may not reduce this exemption, but it may increase it.

(m) Provide greater equity in the taxation of commercial and industrial properties by assessing all of them based on their actual fair market value just like start-ups and new commercial and industrial properties that already are being assessed based on

their actual fair market value. The intent is for all businesses to compete on a more level playing field and make sure all businesses are paying their share to support the schools and local communities from which they benefit.

(n) Require the Legislature, after conferring with a task force on property tax administration, to provide by statute for the phase-in of reassessments of under-assessed commercial and industrial real properties so that county assessors may effectively implement the new law. Such phase-in will begin with the lien date for the 2022–23 fiscal year and occur over several years. Affected owners shall only be obligated to pay the taxes based on the new assessed value beginning with the lien date for the fiscal year when the assessor has completed the reassessment.

(o) Require the Legislature to ensure that the phase-in provisions provide affected owners of under-assessed commercial and industrial real properties reasonable time to pay any increase in their tax obligations resulting from this measure.

(p) Provide for the recovery of actual direct administrative costs incurred by counties to effectively implement the new law.

(q) Ensure that the General Fund and other funds of the state are held harmless by reimbursing the state for reductions in tax revenue caused by the deductibility of the property tax.

(r) Maintain the State Board of Equalization's oversight over the property tax system to assure the public that assessments of commercial and industrial real property in every county are equitable and uniform as required by this measure, and to further ensure that the State Board of Equalization provides statewide assistance as necessary to support the efficient implementation of this measure within all 58 counties.

SEC. 4. Section 8.7 is added to Article XVI of the California Constitution, to read:

SEC. 8.7. (a) The Local School and Community College Property Tax Fund is hereby created in the State Treasury, to be held in trust, and is continuously appropriated for the support of local educational agencies as that term is defined in Section 421 of the Education Code, as that statute read on January 1, 2020, and for the support of community college districts. The moneys deposited in the Local School and Community College Property Tax Fund shall be held in trust for schools, and shall be distributed as follows:

(1) Eleven percent of the moneys shall be allocated by the Board of Governors of the California Community Colleges to community college districts in proportion to the funding calculated for each district pursuant to the distribution formulas operative in statute as of January 1, 2020, or any successor statute, provided that property tax revenues calculated pursuant to

Section 84751 of the Education Code, or any successor statute, that exceed the total funding calculated for a district pursuant to the then operative distribution formulas shall be subtracted from that district's proportionate share of the Local School and Community College Property Tax Fund.

(2) Eighty-nine percent of the moneys shall be allocated by the Superintendent of Public Instruction to school districts, charter schools, and county offices of education as follows:

(A) To school districts and charter schools, in proportion to each school district's or charter school's total funding calculated pursuant to subdivisions (a) to (i), inclusive, of Section 42238.02 of the Education Code, as those provisions read on July 1, 2019. Any school district or charter school that qualifies as a "basic aid school district" or "excess tax entity" under subdivision (o) of Section 42238.02 of the Education Code shall have subtracted from its proportionate share of the Local School and Community College Property Tax Fund the amount by which the sum calculated in subdivision (j) of Section 42238.02 of the Education Code exceeds the amount calculated pursuant to subdivisions (a) to (i), inclusive, of Section 42238.02 of the Education Code, as each of those provisions read on July 1, 2019.

(B) To county offices of education, in proportion to each office's total funding calculated pursuant to Section 2574 of the Education Code, as that section read on July 1, 2019.

(3) Notwithstanding paragraphs (1) and (2) of this subdivision, no school district or charter school shall receive from the Local School and Community College Property Tax Fund less than one hundred dollars (\$100) per unit of average daily attendance, adjusted annually upward or downward by the same percentage that the Local School and Community College Property Tax Fund grew or declined from the previous year, and no community college district shall receive from the Local School and Community College Property Tax Fund less than one hundred dollars (\$100) per enrolled full-time equivalent student, adjusted annually upward or downward by the same percentage that the Local School and Community College Property Tax Fund grew or declined from the previous year.

(b) Except as provided in paragraph (2) of subdivision (d) of Section 8.6 of this article, notwithstanding any other law, the moneys deposited in the Local School and Community College Property Tax Fund shall not be subject to appropriation, reversion, or transfer by the Legislature, the Governor, the Director of Finance, or the Controller for any purpose other than those specified in this section, nor shall these revenues be loaned to the General Fund or any other fund of the State or any local government fund.

(c) Moneys allocated to local educational agencies, as that term is defined in Section 421 of the Education

Code, as that statute read on January 1, 2020, and to community college districts from the Local School and Community College Property Tax Fund shall supplement, and shall not replace, other funding for education. Funds deposited into or allocated from the Local School and Community College Property Tax Fund shall not be part of “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes” for purposes of paragraphs (2) and (3) of subdivision (b) of Section 8 of this article or for purposes of Section 21 of this article. Except as provided in subdivision (c) of Section 8.6 of this article, revenues generated by Section 2.5 of Article XIII A shall not be deemed to be General Fund revenues which may be appropriated pursuant to Article XIII B for purposes of paragraph (1) of subdivision (b) of Section 8 of this article, nor shall they be considered in the determination of per capita General Fund revenues for purposes of subdivisions (b) and (e) of Section 8 of this article.

(d) Except as provided in subdivision (c) of Section 8.6 of this article, revenues generated by Section 2.5 of Article XIII A shall not be deemed to be General Fund proceeds of taxes that may be appropriated pursuant to Article XIII B for purposes of Section 20 or Section 21 of this article.

SEC. 5. Section 8.6 is added to Article XVI of the California Constitution, to read:

Sec. 8.6. (a) The Legislature shall provide by statute a methodology, based on historical experience, for determining the additional revenue generated in each county each fiscal year as a result of the application of the tax rate specified in subdivision (a) of Section 1 of Article XIII A and the application of Section 2.5 of Article XIII A. The determination as to the amount of additional revenue in each county shall be transmitted to the county auditor annually for use for the calculations required by this section.

(b) After transferring the necessary funds pursuant to subdivisions (c), (d), and (e), and subparagraph (B) of paragraph (1) of this subdivision, all additional revenue resulting from the application of the tax rate specified in subdivision (a) of Section 1 of Article XIII A and the application of Section 2.5 of Article XIII A shall be allocated and transferred by the county auditor as follows:

(1) (A) First, to the Local School and Community College Property Tax Fund created pursuant to Section 8.7 of this article, in an amount equal to the school entities’ share of property taxes as determined pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code, as that chapter read on January 1, 2020.

(B) Prior to making the transfer pursuant to subparagraph (A) of paragraph (1) of this subdivision,

the county auditor shall subtract an amount equal to the county’s share of the increase in appropriations of General Fund proceeds of taxes for the support of school districts and community college districts pursuant to Section 8 of this article due to the revenue loss resulting from the exemptions provided by Section 3.1 of Article XIII, as determined by the Director of Finance. The county’s share of additional General Fund appropriations shall be transferred by the county auditor to the General Fund prior to the allocation specified in subparagraph (A) of paragraph (1) of this subdivision. The amount determined by the Director of Finance pursuant to this subparagraph shall for each fiscal year be apportioned by county in proportion to the revenue loss resulting from the exemptions provided by Section 3.1 of Article XIII.

(2) Second, among cities, counties, and special districts pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code, as that chapter read on January 1, 2020.

(c) The Franchise Tax Board shall determine the reduction to the General Fund and any other affected state fund of revenues derived from the taxes imposed by the Personal Income Tax Law (Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code) and the Corporation Tax Law (Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code), as those laws read on January 1, 2020, due to the deduction of any net increase in property taxes resulting from the implementation of subdivision (a) of Section 3.1 of Article XIII and Section 2.5 of Article XIII A. The amount of reduction as determined by the Franchise Tax Board shall be transferred by the county auditor to the General Fund and any other affected state fund prior to the allocation specified in subdivision (b). For purposes of making the determinations required by Sections 8, 20, and 21 of this article, the amount transferred to the General Fund pursuant to this subdivision shall be deemed to be General Fund revenues which may be appropriated pursuant to Article XIII B and General Fund proceeds of taxes appropriated pursuant to Article XIII B and shall be included in the calculation of per capita General Fund revenues. The amount transferred pursuant to this subdivision shall for each fiscal year be apportioned among the counties in proportion to each county’s contribution to the total additional revenue resulting from the application of the tax rate specified in subdivision (a) of Section 1 of Article XIII A and the application Section 2.5 of Article XIII A determined for all counties.

(d) (1) Each county or city and county shall be annually compensated for the actual direct administrative costs of implementing Section 3.1 of Article XIII and Section 2.5 of Article XIII A as identified by the board of supervisors of the county or city and county consistent with statutes identifying

those costs. The Legislature shall determine by statute what constitutes actual direct administrative costs for purposes of this subdivision. Such costs shall at a minimum include the costs of assessment, assessment appeals, legal counsel, tax allocation and distribution, and auditing and enforcement of the provisions of Section 3.1 of Article XIII and Section 2.5 of Article XIII A. It is the intent of this subdivision to provide full adequate funding to counties to cover all costs associated with implementation of the act.

(2) The Legislature shall determine by statute the initial startup costs necessary for each county or city and county and the State Board of Equalization to implement the act and shall appropriate General Fund moneys to pay for such startup costs until sufficient funds are available to pay for all ongoing costs to implement the act, at which time the statute shall provide for the General Fund to be reimbursed.

(e) Each county or city and county shall annually be reimbursed for actual refunds of property taxes paid in the prior fiscal year as a result of corrections to assessments made pursuant to Section 2.5 of Article XIII A. The amount reimbursed pursuant to this subdivision shall for each fiscal year be subtracted from each county's contribution to the total additional revenue resulting from the application of Section 2.5 of Article XIII A as a result of the application of the tax rate specified in subdivision (a) of Section 1 of Article XIII A.

(f) All local educational agencies, community colleges, counties, cities and counties, cities, and special districts that receive funds from the revenues generated by Section 2.5 of Article XIII A shall publicly disclose for each fiscal year, including in their annual budgets, the amount of property tax revenues they received for that fiscal year as the result of Section 2.5 of Article XIII A and how those revenues were spent. Such disclosure shall be made so that it is widely available to the public and written so as to be easily understood.

SEC. 6. Section 2.5 is added to Article XIII A of the California Constitution, to read:

SEC. 2.5. (a) (1) Notwithstanding Section 2 of this article, for the lien date for the 2022–23 fiscal year and each lien date thereafter, the “full cash value” of commercial and industrial real property that is not otherwise exempt under the Constitution is the fair market value of such real property as of that date as determined by the county assessor of the county in which such real property is located, except as provided by the Legislature pursuant to subdivision (b).

(2) Paragraph (1) of this subdivision shall not apply to residential property as defined in this section, whether it is occupied by a homeowner or a renter. Residential property as defined in this section shall be assessed as required by Section 2 of this article. Paragraph (1) of this subdivision shall also not apply

to real property used for commercial agricultural production as defined in this section. Real property used for commercial agricultural production as defined in this section shall be assessed as required by Section 2 of this article.

(b) The Legislature shall establish a task force on property tax administration immediately after this section is enacted, including a county assessor or designee, a State Board of Equalization member or designee, a proponent of this act or designee, a taxpayer representative, and a member of the Legislature or designee. The task force shall publicly convene immediately upon its creation to examine and recommend to the Legislature all statutory and regulatory changes necessary for the equitable implementation of this measure consistent with its purpose and intent. The Legislature, after conferring with the task force, shall provide by statute for the phase-in of the reassessment of commercial and industrial real property as required by paragraph (1) of subdivision (a). Any such phase-in shall provide for reassessment of a percentage of all commercial and industrial real properties within each county commencing with the lien date for the 2022–23 fiscal year and extending over two or more lien dates each fiscal year thereafter, in order to ensure a reasonable workload and implementation period for county assessors, including provision for processing and timing of assessment appeals. An owner shall first be obligated to pay the taxes based on the new assessed value beginning with the lien date for the fiscal year when the county assessor has completed the reassessment. The phase-in also shall provide taxpayers whose property has been reassessed a reasonable timeframe within which to pay any increase in taxes. After the initial reassessment of commercial and industrial real property pursuant to this subdivision, such commercial and industrial real property shall be periodically reassessed no less frequently than every three years as determined by the Legislature. Notwithstanding existing statutes, the Legislature shall, in consultation with county assessors, develop a process for hearing appeals resulting from the reassessment of properties pursuant to this section that is consistent with the following:

(1) The process shall not include automatic acceptance of the applicant's opinion of values within a given timeframe.

(2) The process shall impose on the taxpayer the burden of proof that the property was not properly valued.

(3) The process shall require the taxpayer to provide evidence relevant to any appeal in the initial application before the local assessment appeals board.

(4) The process shall ensure that decisions by local administrative hearing bodies such as assessment appeals boards, if subject to judicial review, are

subject only to *de novo* judicial review on issues of law, while issues of fact, including valuation, shall be reviewed under the substantial evidence standard.

(c) For purposes of this section:

(1) “Commercial and industrial real property” means any real property that is used as commercial or industrial property, or is vacant land not zoned for residential use and not used for commercial agricultural production. For purposes of this paragraph, vacant land shall not include real property that is used or protected for open space, a park, or the equivalent designation for land essentially free of structures, natural in character to provide opportunities for recreation and education, and intended to preserve scenic, cultural, or historic values.

(2) “Mixed-use real property” means real property on which both residential and commercial or industrial uses are permitted.

(3) “Real property used for commercial agricultural production” means land that is used for producing commercial agricultural commodities.

(4) (A) “Residential property” shall include real property used as residential property, including both single-family and multiunit structures, and the land on which those structures are constructed or placed.

(B) The Legislature shall provide by statute that any property zoned as commercial or industrial but used as long-term residential property shall be classified as residential for purposes of paragraph (2) of subdivision (a). For mixed-use real property, the Legislature shall ensure only that portion of the property that is used for commercial and industrial purposes shall be subject to reassessment as required by paragraph (1) of subdivision (a). The Legislature shall also define and provide by statute that limited commercial uses of residential property, such as home offices, home-based businesses or short-term rentals, shall be classified as residential for purposes of paragraph (2) of subdivision (a). The Legislature may provide for an exclusion from reassessment for the commercial share of mixed-use property provided 75 percent or more of the property by square footage or value is residential.

(d) (1) Subject to paragraph (2) of this subdivision, upon reassessment pursuant to subdivisions (a) and (b), each commercial and industrial real property with a fair market value of three million dollars (\$3,000,000) or less shall not be subject to reassessment pursuant to paragraph (1) of subdivision (a) and shall be assessed as required by Section 2 of this article. The amount specified in this paragraph shall be adjusted for inflation every two years commencing January 1, 2025, as determined by the State Board of Equalization. The State Board of Equalization shall calculate the adjustment separately for each county taking into consideration differences

in average commercial and industrial market values among counties.

(2) Notwithstanding paragraph (1) of this subdivision, real property that would otherwise comply with the exclusion set forth in paragraph (1) of this subdivision shall be subject to reassessment pursuant to paragraph (1) of subdivision (a) if any of the direct or indirect beneficial owners of such real property own a direct or indirect beneficial ownership interest in other commercial or industrial real property located in the State, which such real property in the aggregate, including the subject property, has a fair market value in excess of three million dollars (\$3,000,000). The amount specified in this paragraph shall be adjusted for inflation every two years commencing January 1, 2025, as determined by the State Board of Equalization.

(3) All determinations of fair market value under this subdivision shall be determined by the county assessor of the county in which the property is located, and such determinations by the county assessor shall be conclusive and subject only to judicial review for abuse of discretion.

(4) In order to be eligible for the exclusion provided by paragraph (1) of this subdivision, the owner of the real property shall make a claim and certify annually to the county assessor under penalty of perjury that the conditions required by paragraphs (1) and (2) of this subdivision for exemption from reassessment have been met and shall be subject to audit by the county or the State as to that certification. The State Board of Equalization shall have the authority to conduct any audits on behalf of the State.

(5) Any real property excluded from reassessment under paragraph (1) of this subdivision shall only be excluded from reassessment so long as it meets the conditions imposed by paragraphs (1) and (2) of this subdivision. If there is any change in the direct or indirect beneficial ownership of such real property, a new claim and certification must be made to the county assessor.

(6) Any appeals by taxpayers who are found not to be excluded from reassessment pursuant to paragraph (1) of this subdivision shall be subject to the process for hearing appeals as provided in subdivision (b).

(e) (1) Provided 50 percent or more of the occupied square footage of a commercial or industrial real property is occupied by a small business as defined in paragraph (4) of this subdivision, the provisions of paragraph (1) of subdivision (a) shall not take effect prior to the lien date for the 2025–26 fiscal year; provided, however, that if the Legislature establishes by statute pursuant to subdivision (b) that a real property qualified under this paragraph shall be reassessed on a lien date subsequent to the 2025–26 fiscal year, then such property shall be reassessed commencing on that subsequent lien date.

(2) In order to be eligible for the deferral provided by paragraph (1) of this subdivision, the owner of the property shall make a claim and certify annually to the county assessor under penalty of perjury that the conditions required by paragraph (1) of this subdivision for deferral from reassessment have been met and shall be subject to audit by the county or the State Board of Equalization as to that certification.

(3) Any real property for which reassessment is deferred under paragraph (1) of this subdivision shall only be eligible for deferral so long as it meets the conditions imposed by paragraph (1) of this subdivision and if there is any change in the direct or indirect beneficial ownership of such real property, a new claim and certification must be made to the county assessor. Upon termination of the deferral, the property shall be subject to paragraph (1) of subdivision (a).

(4) For purposes of this subdivision, the term “small business” shall include only those businesses which meet all of the following conditions:

(A) The business has fewer than 50 annual full-time equivalent employees.

(B) The business is independently owned and operated such that the business ownership interests, management, and operation are not subject to control, restriction, modification, or limitation by an outside source, individual, or another business.

(C) The business owns real property located in California.

(f) For purposes of this section, the failure in any year to claim, in a manner required by the laws in effect at the time the claim is required to be made, an exclusion or classification which reduces or defers an assessment or reassessment shall be deemed a waiver of the exclusion or classification for that year.

(g) Using the methodology prescribed by the Legislature pursuant to subdivision (a) of Section 8.6 of Article XVI, the percentage change in gross taxable assessed valuation within a city, county, or city and county used to calculate an entity’s vehicle license fee adjustment amount pursuant to Section 97.70 of the Revenue and Taxation Code shall not include the additional assessed valuation that results from the application of this section.

(h) Notwithstanding Section 16 of Article XVI or any other law, the additional assessed valuation that results from the application of this section shall not be factored into any division of taxes or calculation of growth for treatment as tax increment and shall not be diverted in any manner whatsoever.

SEC. 7. Section 3.1 is added to Article XIII of the California Constitution, to read:

SEC. 3.1. (a) (1) For each taxpayer paying the tax on tangible personal property, including business

equipment and fixtures, used for business purposes, either of the following shall apply:

(A) (i) For a taxpayer that is a small business, as defined in paragraph (4) of subdivision (e) of Section 2.5 of Article XIII A, all tangible personal property owned and used for business purposes is exempt from taxation.

(ii) A taxpayer shall make a claim and certify annually to the county assessor under penalty of perjury that the condition required by this subparagraph for exemption has been met and such claim shall be subject to audit by the county or the State as to that certification.

(B) Except for a taxpayer subject to subparagraph (A) of paragraph (1) of this subdivision, an amount of up to five hundred thousand dollars (\$500,000) of combined tangible personal property and fixtures, per taxpayer, is exempt from taxation.

(2) Aircraft and vessels shall not be subject to this exemption.

(3) The Legislature shall not lower the exemption amounts provided by this subdivision or change their application, but may increase the exemption amount specified in subparagraph (B) of paragraph (1) of this subdivision consistent with the authority enumerated in Section 2 of this article.

(b) The Legislature shall provide by statute that all related entities, including, but not limited to, any subsidiaries, holding companies, or parent corporations, are considered one “taxpayer” for the purposes of this section.

SEC. 8. Section 16 is added to Article XIII B of the California Constitution, to read:

SEC. 16. (a) For purposes of this article, “proceeds of taxes” shall not include the additional revenues generated by Section 2.5 of Article XIII A.

(b) For purposes of this article, appropriations subject to limitation of each entity of government shall not include appropriations of the additional revenues collected as a result of the implementation of Section 2.5 of Article XIII A.

SEC. 9. Effective Date.

This measure shall become operative on January 1, 2022, except that subdivision (a) of Section 3.1 of Article XIII shall become operative on January 1, 2024, and subdivision (d) of Section 8.6 of Article XVI and subdivision (b) of Section 2.5 of Article XIII A shall become operative immediately upon passage of this measure.

SEC. 10. Severability.

The provisions of this act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect

the validity of the remaining portions of this act. The people of the State of California hereby declare that they would have adopted this act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this act or application thereof would be subsequently declared invalid. Notwithstanding the foregoing, Section 7 of this act is non-severable from Section 6 of this act.

SEC. 11. Liberal Construction.

This act shall be liberally construed in order to effectuate its purposes as articulated in Section 3 of this act.

PROPOSITION 16

This amendment proposed by Assembly Constitutional Amendment 5 of the 2019–2020 Regular Session (Resolution Chapter 23, Statutes of 2020) expressly amends the California Constitution by repealing a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~.

PROPOSED AMENDMENT TO ARTICLE I

That Section 31 of Article I thereof is repealed.

~~SEC. 31. (a) The State shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.~~

~~(b) This section shall apply only to action taken after the section's effective date.~~

~~(c) Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex which are reasonably necessary to the normal operation of public employment, public education, or public contracting.~~

~~(d) Nothing in this section shall be interpreted as invalidating any court order or consent decree which is in force as of the effective date of this section.~~

~~(e) Nothing in this section shall be interpreted as prohibiting action which must be taken to establish or maintain eligibility for any federal program, where ineligibility would result in a loss of federal funds to the State.~~

~~(f) For the purposes of this section, "State" shall include, but not necessarily be limited to, the State itself, any city, county, city and county, public university system, including the University of California, community college district, school district, special district, or any other political subdivision or governmental instrumentality of or within the State.~~

~~(g) The remedies available for violations of this section shall be the same, regardless of the injured party's race, sex, color, ethnicity, or national origin, as~~

~~are otherwise available for violations of then-existing California antidiscrimination law.~~

~~(h) This section shall be self-executing. If any part or parts of this section are found to be in conflict with federal law or the United States Constitution, the section shall be implemented to the maximum extent that federal law and the United States Constitution permit. Any provision held invalid shall be severable from the remaining portions of this section.~~

PROPOSITION 17

This amendment proposed by Assembly Constitutional Amendment 6 of the 2019–2020 Regular Session (Resolution Chapter 24, Statutes of 2020) expressly amends the California Constitution by amending sections thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENTS TO ARTICLE II

First—That Section 2 of Article II thereof is amended to read:

SEC. 2. (a) A United States citizen 18 years of age and resident in this State may vote.

(b) An elector disqualified from voting while serving a state or federal prison term, as described in Section 4, shall have their right to vote restored upon the completion of their prison term.

Second—That Section 4 of Article II thereof is amended to read:

SEC. 4. The Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent or imprisoned or on parole *serving a state or federal prison term* for the conviction of a felony.

PROPOSITION 18

This amendment proposed by Assembly Constitutional Amendment 4 of the 2019–2020 Regular Session (Resolution Chapter 30, Statutes of 2020) expressly amends the California Constitution by amending a section thereof; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE II

That Section 2 of Article II thereof is amended to read:

SEC. 2. (a) A United States citizen *who is at least 18 years of age and a resident in this State* may vote.

(b) A United States citizen who is 17 years of age, is a resident in this State, and will be at least 18 years of age at the time of the next general election may

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vote in any primary or special election that occurs before the next general election in which the citizen would be eligible to vote if at least 18 years of age.

PROPOSITION 19

This amendment proposed by Assembly Constitutional Amendment 11 of the 2019–2020 Regular Session (Resolution Chapter 31, Statutes of 2020) expressly amends the California Constitution by adding sections thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENTS TO ARTICLE XIII A

First—This measure shall be known, and may be cited, as the Home Protection for Seniors, Severely Disabled, Families, and Victims of Wildfire or Natural Disasters Act.

Second—That Section 2.1 is added to Article XIII A thereof, to read:

SEC. 2.1. (a) Limitation on Property Tax Increases on Primary Residences for Seniors, the Severely Disabled, Wildfire and Natural Disaster Victims, and Families. It is the intent of the Legislature in proposing, and the people in adopting, this section to do both of the following:

(1) Limit property tax increases on primary residences by removing unfair location restrictions on homeowners who are severely disabled, victims of wildfires or other natural disasters, or seniors over 55 years of age that need to move closer to family or medical care, downsize, find a home that better fits their needs, or replace a damaged home and limit damage from wildfires on homes through dedicated funding for fire protection and emergency response.

(2) Limit property tax increases on family homes used as a primary residence by protecting the right of parents and grandparents to pass on their family home to their children and grandchildren for continued use as a primary residence, while eliminating unfair tax loopholes used by East Coast investors, celebrities, wealthy non-California residents, and trust fund heirs to avoid paying a fair share of property taxes on vacation homes, income properties, and beachfront rentals they own in California.

(b) Property Tax Fairness for Seniors, the Severely Disabled, and Victims of Wildfire and Natural Disasters. Notwithstanding any other provision of this Constitution or any other law, beginning on and after April 1, 2021, the following shall apply:

(1) Subject to applicable procedures and definitions as provided by statute, an owner of a primary residence who is over 55 years of age, severely disabled, or a victim of a wildfire or natural disaster may transfer the taxable value of their primary residence to a replacement primary residence located

anywhere in this state, regardless of the location or value of the replacement primary residence, that is purchased or newly constructed as that person's principal residence within two years of the sale of the original primary residence.

(2) For purposes of this subdivision:

(A) For any transfer of taxable value to a replacement primary residence of equal or lesser value than the original primary residence, the taxable value of the replacement primary residence shall be deemed to be the taxable value of the original primary residence.

(B) For any transfer of taxable value to a replacement primary residence of greater value than the original primary residence, the taxable value of the replacement primary residence shall be calculated by adding the difference between the full cash value of the original primary residence and the full cash value of the replacement primary residence to the taxable value of the original primary residence.

(3) An owner of a primary residence who is over 55 years of age or severely disabled shall not be allowed to transfer the taxable value of a primary residence more than three times pursuant to this subdivision.

(4) Any person who seeks to transfer the taxable value of their primary residence pursuant to this subdivision shall file an application with the assessor of the county in which the replacement primary residence is located. The application shall, at minimum, include information comparable to that identified in paragraph (1) of subdivision (f) of Section 69.5 of the Revenue and Taxation Code, as that section read on January 1, 2020.

(c) Property Tax Fairness for Family Homes. Notwithstanding any other provision of this Constitution or any other law, beginning on and after February 16, 2021, the following shall apply:

(1) For purposes of subdivision (a) of Section 2, the terms "purchased" and "change in ownership" do not include the purchase or transfer of a family home of the transferor in the case of a transfer between parents and their children, as defined by the Legislature, if the property continues as the family home of the transferee. This subdivision shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. The new taxable value of the family home of the transferee shall be the sum of both of the following:

(A) The taxable value of the family home, subject to adjustment as authorized by subdivision (b) of Section 2, determined as of the date immediately prior to the date of the purchase by, or transfer to, the transferee.

(B) The applicable of the following amounts:

(i) If the assessed value of the family home upon purchase by, or transfer to, the transferee is less than the sum of the taxable value described in

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subparagraph (A) plus one million dollars (\$1,000,000), then zero dollars (\$0).

(ii) If the assessed value of the family home upon purchase by, or transfer to, the transferee is equal to or more than the sum of the taxable value described in subparagraph (A) plus one million dollars (\$1,000,000), an amount equal to the assessed value of the family home upon purchase by, or transfer to, the transferee, minus the sum of the taxable value described in subparagraph (A) and one million dollars (\$1,000,000).

(2) Paragraph (1) shall also apply to a purchase or transfer of the family home between grandparents and their grandchildren if all of the parents of those grandchildren, who qualify as children of the grandparents, are deceased as of the date of the purchase or transfer.

(3) Paragraphs (1) and (2) shall also apply to the purchase or transfer of a family farm. For purposes of this paragraph, any reference to a "family home" in paragraph (1) or (2) shall be deemed to instead refer to a "family farm."

(4) Beginning on February 16, 2023, and every other February 16 thereafter, the State Board of Equalization shall adjust the one million dollar (\$1,000,000) amount described in paragraph (1) for inflation to reflect the percentage change in the House Price Index for California for the prior calendar year, as determined by the Federal Housing Finance Agency. The State Board of Equalization shall calculate and publish the adjustments required by this paragraph.

(5) (A) Subject to subparagraph (B), in order to receive the property tax benefit provided by this section for the purchase or transfer of a family home, the transferee shall claim the homeowner's exemption or disabled veteran's exemption at the time of the purchase or transfer of the family home.

(B) A transferee who fails to claim the homeowner's exemption or disabled veteran's exemption at the time of the purchase or transfer of the family home may receive the property tax benefit provided by this section by claiming the homeowner's exemption or disabled veteran's exemption within one year of the purchase or transfer of the family home and shall be entitled to a refund of taxes previously owed or paid between the date of the transfer and the date the transferee claims the homeowner's exemption or disabled veteran's exemption.

(d) Subdivision (h) of Section 2 shall apply to any purchase or transfer that occurs on or before February 15, 2021, but shall not apply to any purchase or transfer occurring after that date. Subdivision (h) of Section 2 shall be inoperative as of February 16, 2021.

(e) For purposes of this section:

(1) "Disabled veteran's exemption" means the exemption authorized by subdivision (a) of Section 4 of Article XIII.

(2) "Family farm" means any real property which is under cultivation or which is being used for pasture or grazing, or that is used to produce any agricultural commodity, as that term is defined in Section 51201 of the Government Code as that section read on January 1, 2020.

(3) "Family home" has the same meaning as "principal residence," as that term is used in subdivision (k) of Section 3 of Article XIII.

(4) "Full cash value" has the same meaning as defined in subdivision (a) of Section 2.

(5) "Homeowner's exemption" means the exemption provided by subdivision (k) of Section 3 of Article XIII.

(6) "Natural disaster" means the existence, as declared by the Governor, of conditions of disaster or extreme peril to the safety of persons or property within the affected area caused by conditions such as fire, flood, drought, storm, mudslide, earthquake, civil disorder, foreign invasion, or volcanic eruption.

(7) "Primary residence" means a residence eligible for either of the following:

(A) The homeowner's exemption.

(B) The disabled veteran's exemption.

(8) "Principal residence" as used in subdivision (b) has the same meaning as that term is used in subdivision (a) of Section 2.

(9) "Replacement primary residence" has the same meaning as "replacement dwelling," as that term is defined in subdivision (a) of Section 2.

(10) "Taxable value" means the base year value determined in accordance with subdivision (a) of Section 2 plus any adjustment authorized by subdivision (b) of Section 2.

(11) "Victim of a wildfire or natural disaster" means the owner of a primary residence that has been substantially damaged as a result of a wildfire or natural disaster that amounts to more than 50 percent of the improvement value of the primary residence immediately before the wildfire or natural disaster. For purposes of this paragraph, "damage" includes a diminution in the value of the primary residence as a result of restricted access caused by the wildfire or natural disaster.

(12) "Wildfire" has the same meaning as defined in subdivision (j) of Section 51177 of the Government Code, as that section read on January 1, 2020.

Third—That Section 2.2 is added to Article XIII A thereof, to read:

SEC. 2.2. (a) Protection of Fire Services, Emergency Response, and County Services. It is the intent of the Legislature in proposing, and the people

in adopting, this section and Section 2.3 to do both of the following:

(1) Dedicate revenue for fire protection and emergency response, address inequities in underfunded fire districts, ensure all communities are protected from wildfires, and safeguard the lives of millions of Californians.

(2) Protect county revenues and other vital local services.

(b) (1) The California Fire Response Fund is hereby created within the State Treasury.

(2) The County Revenue Protection Fund is hereby created within the State Treasury. Moneys in the County Revenue Protection Fund are continuously appropriated, without regard to fiscal year, for the purpose of reimbursing eligible local agencies that incur a negative gain, and paying the administrative costs of the California Department of Tax and Fee Administration, in accordance with Section 2.3. Moneys in the fund shall only be expended as provided in Section 2.3.

(c) For purposes of the calculations required by Section 8 of Article XVI, moneys in the California Fire Response Fund and the County Revenue Protection Fund shall be deemed to be General Fund revenues which may be appropriated pursuant to Article XIII B.

(d) The Director of Finance shall do the following, as applicable:

(1) On or before September 1, 2022, and on or before each subsequent September 1 through September 1, 2027, calculate the additional revenues and savings that accrued to the state from the implementation of Section 2.1, including, but not limited to, any increase in state income tax revenues and net savings to the state arising from any reduction in the state's funding obligation under Section 8 of Article XVI, during the immediately preceding fiscal year ending on June 30. In making the calculation required by this paragraph, the Director of Finance shall use actual data or best available estimates where actual data is not available. The calculation shall be final and shall not be adjusted for any subsequent changes in the underlying data. The Director of Finance shall certify the results of the calculation to the Legislature and the Controller no later than September 1 of each year.

(2) On or before September 1, 2028, and each subsequent September 1 thereafter, calculate the additional revenues and savings that accrued to the state from the implementation of Section 2.1, including, but not limited to, any increase in state income tax revenues and net savings to the state arising from any reduction in the state's funding obligation under Section 8 of Article XVI during the immediately preceding fiscal year ending on June 30 by multiplying the amount from the immediately preceding fiscal year ending on June 30 by the rate of increase in property tax revenues allocated to local

agencies in that fiscal year. In making the calculation required by this paragraph, the Director of Finance shall use actual data or best available estimates where actual data is not available. The calculation shall be final and shall not be adjusted for any subsequent changes in the underlying data. The Director of Finance shall certify the results of the calculation to the Legislature and the Controller no later than September 1 of each fiscal year.

(e) No later than September 15, 2022, and each subsequent September 15 thereafter, the Controller shall do both of the following:

(1) Transfer from the General Fund to the California Fire Response Fund an amount equal to 75 percent of the amount calculated by the Director of Finance pursuant to subdivision (d) for the applicable year.

(2) Transfer from the General Fund to the County Revenue Protection Fund an amount equal to 15 percent of the amount calculated by the Director of Finance pursuant to subdivision (d) for the applicable year. Moneys transferred to the County Revenue Protection Fund pursuant to this paragraph shall be used to reimburse eligible local agencies with a negative gain, as provided in Section 2.3.

(f) Moneys in the California Fire Response Fund shall be appropriated by the Legislature in each fiscal year exclusively for the purposes of this section and, except as otherwise provided in subdivision (g), shall not be appropriated for any other purpose. Moneys in the California Fire Response Fund may be used upon appropriation without regard to fiscal year and shall be used to expand fire suppression staffing, as set forth in paragraphs (1) to (4), inclusive, and not to supplant existing state or local funds utilized for those purposes.

(1) Twenty percent of the moneys in the California Fire Response Fund shall be appropriated to the Department of Forestry and Fire Protection to fund fire suppression staffing.

(2) Eighty percent of the moneys in the California Fire Response Fund shall be deposited in the Special District Fire Response Fund, which is hereby created as a subaccount within the California Fire Response Fund, and appropriated to special districts that provide fire protection services in accordance with the following criteria:

(A) Fifty percent of the amount described in this paragraph shall be used to fund fire suppression staffing in underfunded special districts that provide fire protection services, were formed after July 1, 1978, and employ full-time or full-time-equivalent station-based personnel who are immediately available to comprise at least 50 percent of an initial full alarm assignment.

(B) Twenty-five percent of the amount described in this paragraph shall be used to fund fire suppression staffing in special districts that provide fire protection

services, were formed before July 1, 1978, are underfunded due to a disproportionately low share of property tax revenue and an increase in service level demands since July 1, 1978, and employ full-time or full-time-equivalent station-based personnel who are immediately available to comprise at least 50 percent of an initial full alarm assignment.

(C) Twenty-five percent of the amount described in this paragraph shall be used to fund fire suppression staffing in underfunded special districts that provide fire protection services and employ full-time or full-time-equivalent station-based personnel who are immediately available to comprise at least 30 percent but less than 50 percent of an initial full alarm assignment.

(3) In determining whether a special district that provides fire protection services is underfunded for purposes of paragraph (2), the Legislature shall take into account the following factors, in order of priority:

(A) The degree to which the special district's property tax revenue is insufficient to sustain adequate fire suppression, as measured against the population density, size of the service area, and number of taxpayers within the boundaries of the special district.

(B) Whether the special district, upon formation, received a property tax allocation in accordance with Chapter 282 of the Statutes of 1979.

(C) Geographic diversity.

(4) The allocation of moneys to a special district that qualifies pursuant to paragraph (2) shall be in the form of grants, with a term of not less than 10 years, in order to ensure that the special district can engage in responsible budgeting and sustain adequate fire suppression services over the long term.

(g) Notwithstanding subdivision (f), if in any fiscal year after the first fiscal year for which moneys are transferred from the General Fund to the California Fire Response Fund pursuant to this section the amount transferred exceeds the amount transferred in the previous fiscal year by more than 10 percent, the Controller shall not transfer the amount in excess of that 10 percent, which shall be available for appropriation from the General Fund for any purpose.

Fourth—That Section 2.3 is added to Article XIII A thereof, to read:

SEC. 2.3. (a) Each county shall annually, no later than the date specified by the California Department of Tax and Fee Administration by regulations adopted pursuant to this section, determine the gain for the county and for each local agency in the county resulting from implementation of Section 2.1 by adding the following amounts:

(1) The revenue increase resulting from the sale and reassessment of original primary residences for outbound intercounty transfers pursuant to subdivision (b) of Section 2.1.

(2) The revenue decrease, which shall be expressed as a negative number, resulting from the transfer of taxable values of original primary residences located in other counties to replacement primary residences located within the county for inbound intercounty transfers pursuant to subdivision (b) of Section 2.1.

(3) The revenue increase resulting from subdivision (c) of Section 2.1.

(b) A county or any local agency in the county that has a positive gain determined pursuant to subdivision (a) shall not be eligible to receive reimbursement from the County Revenue Protection Fund. A county or any local agency in the county that has a negative gain determined pursuant to subdivision (a) shall be deemed to be an eligible local agency entitled to a reimbursement from the County Revenue Protection Fund.

(c) The California Department of Tax and Fee Administration shall determine each eligible local agency's aggregate gain every three years, based on the amounts determined pursuant to subdivision (a) for each of those three years, and provide reimbursement to each eligible local agency with a negative gain from the moneys in the County Revenue Protection Fund equal to that amount. If there are insufficient moneys in that fund to cover the total amount of reimbursements under this section, the California Department of Tax and Fee Administration shall allocate a pro rata share of the moneys in the fund to each eligible local agency based on the amount of the eligible local agency's reimbursement relative to the total amount of reimbursements under this section.

(d) At the end of each three-year period described in subdivision (c), after the California Department of Tax and Fee Administration has reimbursed each eligible local agency that has experienced a negative gain during that three-year period, the Controller shall transfer the remaining balance, if any, in the County Revenue Protection Fund to the General Fund, to be available for appropriation for any purpose.

(e) The California Department of Tax and Fee Administration shall promulgate regulations to implement this section pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), as may be amended from time to time by the Legislature, or any successor to those provisions.

(f) For purposes of this section and Section 2.2, an "eligible local agency" is a county, a city, a city and county, a special district, or a school district as determined pursuant to subdivision (o) of Section 42238.02 of the Education Code as it read on January 8, 2020, that has a negative gain as determined pursuant to this section.

PROPOSITION 20

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This act shall be known, and may be cited, as the Reducing Crime and Keeping California Safe Act of 2018.

SEC. 2. Purposes.

This measure will fix three related problems created by recent laws that have threatened the public safety of Californians and their children from violent criminals. This measure will:

- (a) Reform the parole system so violent felons are not released early from prison, strengthen oversight of postrelease community supervision, and tighten penalties for violations of terms of postrelease community supervision;
- (b) Reform theft laws to restore accountability for serial thieves and organized theft rings; and
- (c) Expand DNA collection from persons convicted of drug, theft, and domestic violence related crimes to help solve violent crimes and exonerate the innocent.

SEC. 3. Findings and Declarations.

(a) Prevent Early Release of Violent Felons.

(1) Protecting every person in our state, including our most vulnerable children, from violent crime is of the utmost importance. Murderers, rapists, child molesters, and other violent criminals should not be released early from prison.

(2) Since 2014, California has had a larger increase in violent crime than the rest of the United States. Since 2013, violent crime in Los Angeles has increased 69.5%. Violent crime in Sacramento rose faster during the first six months of 2015 than in any of the 25 largest U.S. cities tracked by the FBI.

(3) Recent changes to parole laws allowed the early release of dangerous criminals by the law's failure to define certain crimes as "violent." These changes allowed individuals convicted of sex trafficking of children, rape of an unconscious person, felony assault with a deadly weapon, battery on a police officer or firefighter, and felony domestic violence to be considered "non-violent offenders."

(4) As a result, these so-called "non-violent" offenders are eligible for early release from prison

after serving only a fraction of the sentence ordered by a judge.

(5) Violent offenders are also being allowed to remain free in our communities even when they commit new crimes and violate the terms of their postrelease community supervision, like the gang member charged with the murder of Whittier Police Officer Keith Boyer.

(6) Californians need better protection from such violent criminals.

(7) Californians need better protection from felons who repeatedly violate the terms of their postrelease community supervision.

(8) This measure reforms the law so felons who violate the terms of their release can be brought back to court and held accountable for such violations.

(9) Californians need better protection from such violent criminals. This measure reforms the law to define such crimes as "violent felonies" for purposes of early release.

(10) Nothing in this act is intended to create additional "strike" offenses, which would increase the state prison population.

(11) Nothing in this act is intended to affect the ability of the California Department of Corrections and Rehabilitation to award educational and merit credits.

(b) Restore Accountability for Serial Theft and Organized Theft Rings.

(1) Recent changes to California law allow individuals who steal repeatedly to face few consequences, regardless of their criminal record or how many times they steal.

(2) As a result, between 2014 and 2016, California had the second highest increase in theft and property crimes in the United States while most states have seen a steady decline. According to the California Department of Justice, the value of property stolen in 2015 was \$2.5 billion with an increase of 13 percent since 2014, the largest single-year increase in at least 10 years.

(3) Individuals who repeatedly steal often do so to support their drug habit. Recent changes to California law have reduced judges' ability to order individuals convicted of repeated theft crimes into effective drug treatment programs.

(4) California needs stronger laws for those who are repeatedly convicted of theft related crimes, which will encourage those who repeatedly steal to support their drug problem to enter into existing drug treatment programs. This measure enacts such reforms.

(c) Restore DNA Collection to Solve Violent Crime.

(1) Collecting DNA from criminals is essential to solving violent crimes. Over 450 violent crimes, including murder, rape, and robbery, have gone

unsolved because DNA is being collected from fewer criminals.

(2) DNA collected in 2015 from a convicted child molester solved the rape-murders of two six-year-old boys, which occurred three decades ago in Los Angeles County. DNA collected in 2016 from an individual caught driving a stolen car solved the 2012 San Francisco Bay Area rape-murder of an 83-year-old woman.

(3) Recent changes to California law unintentionally eliminated DNA collection for theft and drug crimes. This measure restores DNA collection from persons convicted for such offenses.

(4) Permitting collection of more DNA samples will help identify suspects, clear the innocent, and free the wrongly convicted.

(5) This measure does not affect existing legal safeguards that protect the privacy of individuals by allowing for the removal of their DNA profile if they are not charged with a crime, are acquitted, or are found innocent.

SEC. 4. Parole Consideration.

SEC. 4.1. Section 3003 of the Penal Code is amended to read:

3003. (a) Except as otherwise provided in this section, an inmate who is released on parole or postrelease community supervision as provided by Title 2.05 (commencing with Section 3450) shall be returned to the county that was the last legal residence of the inmate prior to the inmate's incarceration. An inmate who is released on parole or postrelease community supervision as provided by Title 2.05 (commencing with Section 3450) and who was committed to prison for a sex offense for which registration is required pursuant to Section 290, shall, through all efforts reasonably possible, be returned to the city that was the last legal residence of the inmate prior to incarceration or a close geographic location in which the inmate has family, social ties, or economic ties and access to reentry services, unless return to that location would violate any other law or pose a risk to the inmate's victim. For purposes of this subdivision, "last legal residence" shall not be construed to mean the county or city wherein the inmate committed an offense while confined in a state prison or local jail facility or while confined for treatment in a state hospital.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county or city if that would be in the best interests of the public. If the Board of Parole Hearings setting the conditions of parole for inmates sentenced pursuant to subdivision (b) of Section 1168, as determined by the parole consideration panel, or the Department of Corrections and Rehabilitation setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to another county or city, it shall place its

reasons in writing in the parolee's permanent record and include these reasons in the notice to the sheriff or chief of police pursuant to Section 3058.6. In making its decision, the paroling authority shall consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(5) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) The Department of Corrections and Rehabilitation, in determining an out-of-county commitment, shall give priority to the safety of the community and any witnesses and victims.

(d) In making its decision about an inmate who participated in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5, the paroling authority shall give serious consideration to releasing the inmate to the county where the joint venture program employer is located if that employer states to the paroling authority that the employer intends to employ the inmate upon release.

(e) (1) The following information, if available, shall be released by the Department of Corrections and Rehabilitation to local law enforcement agencies regarding a paroled inmate or inmate placed on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) who is released in their jurisdictions:

(A) Last, first, and middle names.

(B) Birth date.

(C) Sex, race, height, weight, and hair and eye color.

(D) Date of parole or placement on postrelease community supervision and discharge.

(E) Registration status, if the inmate is required to register as a result of a controlled substance, sex, or arson offense.

(F) California Criminal Information Number, FBI number, social security number, and driver's license number.

(G) County of commitment.

(H) A description of scars, marks, and tattoos on the inmate.

(I) Offense or offenses for which the inmate was convicted that resulted in parole or postrelease community supervision in this instance.

(J) Address, including all of the following information:

(i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.

(ii) City and ZIP Code.

(iii) Date that the address provided pursuant to this subparagraph was proposed to be effective.

(K) Contact officer and unit, including all of the following information:

(i) Name and telephone number of each contact officer.

(ii) Contact unit type of each contact officer such as units responsible for parole, registration, or county probation.

(L) A digitized image of the photograph and at least a single digit fingerprint of the parolee.

(M) A geographic coordinate for the inmate's residence location for use with a Geographical Information System (GIS) or comparable computer program.

(N) Copies of the record of supervision during any prior period of parole.

(2) Unless the information is unavailable, the Department of Corrections and Rehabilitation shall electronically transmit to the county agency identified in subdivision (a) of Section 3451 the inmate's tuberculosis status, specific medical, mental health, and outpatient clinic needs, and any medical concerns or disabilities for the county to consider as the offender transitions onto postrelease community supervision pursuant to Section 3450, for the purpose of identifying the medical and mental health needs of the individual. All transmissions to the county agency shall be in compliance with applicable provisions of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191), the federal Health Information Technology for Economic and Clinical Health Act (HITECH) (Public Law 111-005), and the implementing of privacy and security regulations in Parts 160 and 164 of Title 45 of the Code of Federal Regulations. This paragraph shall not take effect until the Secretary of the United States Department of Health and Human Services, or the secretary's designee, determines that this provision is not preempted by HIPAA.

(3) Except for the information required by paragraph (2), the information required by this subdivision shall come from the statewide parolee database. The information obtained from each source shall be based on the same timeframe.

(4) All of the information required by this subdivision shall be provided utilizing a computer-to-computer transfer in a format usable by a desktop computer

system. The transfer of this information shall be continually available to local law enforcement agencies upon request.

(5) The unauthorized release or receipt of the information described in this subdivision is a violation of Section 11143.

(f) Notwithstanding any other law, if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of Parole Hearings or the Department of Corrections and Rehabilitation finds that there is a need to protect the life, safety, or well-being of the victim or witness, an inmate who is released on parole shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, any of the following crimes:

(1) A violent felony as defined in ~~paragraphs (1) to (7), inclusive, and paragraphs (11) and (16) of subdivision (c) of Section 667.5 or subdivision (a) of Section 3040.1.~~

(2) A felony in which the defendant inflicts great bodily injury on a person, other than an accomplice, that has been charged and proved as provided for in Section 12022.53, 12022.7, or 12022.9.

(3) A violation of paragraph (1), (3), or (4) of subdivision (a) of Section 261, subdivision (f), (g), or (i) of Section 286, subdivision (f), (g), or (i) of Section 287 or of former Section 288a, or subdivision (b), (d), or (e) of Section 289.

(g) Notwithstanding any other law, an inmate who is released on parole for a violation of Section 288 or 288.5 whom the Department of Corrections and Rehabilitation determines poses a high risk to the public shall not be placed or reside, for the duration of the inmate's parole, within one-half mile of a public or private school including any or all of kindergarten and grades 1 to 12, inclusive.

(h) Notwithstanding any other law, an inmate who is released on parole or postrelease community supervision for a stalking offense shall not be returned to a location within 35 miles of the victim's or witness' actual residence or place of employment if the victim or witness has requested additional distance in the placement of the inmate on parole or postrelease community supervision, and if the Board of Parole Hearings or the Department of Corrections and Rehabilitation, or the supervising county agency, as applicable, finds that there is a need to protect the life, safety, or well-being of the victim. If an inmate who is released on postrelease community supervision cannot be placed in the inmate's county of last legal residence in compliance with this subdivision, the supervising county agency may transfer the inmate to another county upon approval of the receiving county.

(i) The authority shall give consideration to the equitable distribution of parolees and the proportion of out-of-county commitments from a county

compared to the number of commitments from that county when making parole decisions.

(j) An inmate may be paroled to another state pursuant to any other law. The Department of Corrections and Rehabilitation shall coordinate with local entities regarding the placement of inmates placed out of state on postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450).

(k) (1) Except as provided in paragraph (2), the Department of Corrections and Rehabilitation shall be the agency primarily responsible for, and shall have control over, the program, resources, and staff implementing the Law Enforcement Automated Data System (LEADS) in conformance with subdivision (e). County agencies supervising inmates released to postrelease community supervision pursuant to Title 2.05 (commencing with Section 3450) shall provide any information requested by the department to ensure the availability of accurate information regarding inmates released from state prison. This information may include *all records of supervision*, the issuance of warrants, revocations, or the termination of postrelease community supervision. On or before August 1, 2011, county agencies designated to supervise inmates released to postrelease community supervision shall notify the department that the county agencies have been designated as the local entity responsible for providing that supervision.

(2) Notwithstanding paragraph (1), the Department of Justice shall be the agency primarily responsible for the proper release of information under LEADS that relates to fingerprint cards.

(l) In addition to the requirements under subdivision (k), the Department of Corrections and Rehabilitation shall submit to the Department of Justice data to be included in the supervised release file of the California Law Enforcement Telecommunications System (CLETS) so that law enforcement can be advised through CLETS of all persons on postrelease community supervision and the county agency designated to provide supervision. The data required by this subdivision shall be provided via electronic transfer.

SEC. 4.2. Section 3040.1 is added to the Penal Code, to read:

3040.1 (a) For purposes of early release or parole consideration under the authority of Section 32 of Article I of the Constitution, Sections 12838.4 and 12838.5 of the Government Code, Sections 3000.1, 3041.5, 3041.7, 3052, 5000, 5054, 5055, 5076.2 of the Penal Code and the rulemaking authority granted by Section 5058 of the Penal Code, the following shall be defined as "violent felony offenses":

- (1) *Murder or voluntary manslaughter.*
- (2) *Mayhem.*

(3) *Rape, as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.*

(4) *Sodomy, as defined in subdivision (c) or (d) of Section 286.*

(5) *Oral copulation, as defined in subdivision (c) or (d) of Section 287.*

(6) *Lewd or lascivious act, as defined in subdivision (a) or (b) of Section 288.*

(7) *Any felony punishable by death or imprisonment in the state prison for life.*

(8) *Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.*

(9) *Any robbery.*

(10) *Arson, in violation of subdivision (a) or (b) of Section 451.*

(11) *Sexual penetration, as defined in subdivision (a) or (j) of Section 289.*

(12) *Attempted murder.*

(13) *A violation of Section 18745, 18750, or 18755.*

(14) *Kidnapping.*

(15) *Assault with the intent to commit a specified felony, in violation of Section 220.*

(16) *Continuous sexual abuse of a child, in violation of Section 288.5.*

(17) *Carjacking, as defined in subdivision (a) of Section 215.*

(18) *Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.*

(19) *Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22.*

(20) *Threats to victims or witnesses, as defined in subdivision (c) of Section 136.1.*

(21) *Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.*

(22) *Any violation of Section 12022.53.*

(23) *A violation of subdivision (b) or (c) of Section 11418.*

(24) *Solicitation to commit murder.*

(25) *Felony assault with a firearm, in violation of paragraph (2) of subdivision (a) and subdivision (b) of Section 245.*

(26) *Felony assault with a deadly weapon, in violation of paragraph (1) of subdivision (a) of Section 245.*

(27) *Felony assault with a deadly weapon upon the person of a peace officer or firefighter, in violation of subdivisions (c) and (d) of Section 245.*

(28) *Felony assault by means of force likely to produce great bodily injury, in violation of paragraph (4) of subdivision (a) of Section 245.*

(29) *Assault with caustic chemicals, in violation of Section 244.*

(30) *False imprisonment, in violation of Section 210.5.*

(31) *Felony discharging a firearm, in violation of Section 246.*

(32) *Discharge of a firearm from a motor vehicle, in violation of subdivision (c) of Section 26100.*

(33) *Felony domestic violence resulting in a traumatic condition, in violation of Section 273.5.*

(34) *Felony use of force or threats against a witness or victim of a crime, in violation of Section 140.*

(35) *Felony resisting a peace officer and causing death or serious injury, in violation of Section 148.10.*

(36) *Felony hate crime punishable pursuant to Section 422.7.*

(37) *Felony elder or dependent adult abuse, in violation of subdivision (b) of Section 368.*

(38) *Rape, in violation of paragraph (1), (3), or (4) of subdivision (a) of Section 261.*

(39) *Rape, in violation of Section 262.*

(40) *Sexual penetration, in violation of subdivision (b), (d), or (e) of Section 289.*

(41) *Sodomy, in violation of subdivision (f), (g), or (i) of Section 286.*

(42) *Oral copulation, in violation of subdivision (f), (g), or (i) of Section 287.*

(43) *Abduction of a minor for purposes of prostitution, in violation of Section 267.*

(44) *Human trafficking, in violation of subdivision (a), (b), or (c) of Section 236.1.*

(45) *Child abuse, in violation of Section 273ab.*

(46) *Possessing, exploding, or igniting a destructive device, in violation of Section 18740.*

(47) *Two or more violations of subdivision (c) of Section 451.*

(48) *Any attempt to commit an offense described in this subdivision.*

(49) *Any felony in which it is pled and proven that the defendant personally used a dangerous or deadly weapon.*

(50) *Any offense resulting in lifetime sex offender registration pursuant to Sections 290 to 290.009, inclusive.*

(51) *Any conspiracy to commit an offense described in this section.*

(b) *The provisions of this section shall apply to any inmate serving a custodial prison sentence on or after the effective date of this section, regardless of when the sentence was imposed.*

SEC. 4.3. Section 3040.2 is added to the Penal Code, to read:

3040.2. (a) *Upon conducting a nonviolent offender parole consideration review, the hearing officer for the Board of Parole Hearings shall consider all relevant, reliable information about the inmate.*

(b) *The standard of review shall be whether the inmate will pose an unreasonable risk of creating victims as a result of felonious conduct if released from prison.*

(c) *In reaching this determination, the hearing officer shall consider the following factors:*

(1) *Circumstances surrounding the current conviction.*

(2) *The inmate's criminal history, including involvement in other criminal conduct, both juvenile and adult, which is reliably documented.*

(3) *The inmate's institutional behavior, including both rehabilitative programming and institutional misconduct.*

(4) *Any input from the inmate, any victim, whether registered or not at the time of the referral, and the prosecuting agency or agencies.*

(5) *The inmate's past and present mental condition as documented in records in the possession of the Department of Corrections and Rehabilitation.*

(6) *The inmate's past and present attitude about the crime.*

(7) *Any other information which bears on the inmate's suitability for release.*

(d) *The following circumstances shall be considered by the hearing officer in determining whether the inmate is unsuitable for release:*

(1) *Multiple victims involved in the current commitment offense.*

(2) *A victim was particularly vulnerable due to age or physical or mental condition.*

(3) *The inmate took advantage of a position of trust in the commission of the crime.*

(4) *The inmate was armed with or used a firearm or other deadly weapon in the commission of the crime.*

(5) *A victim suffered great bodily injury during the commission of the crime.*

(6) *The inmate committed the crime in association with a criminal street gang.*

(7) *The inmate occupied a position of leadership or dominance over other participants in the commission of the crime or the inmate induced others to participate in the commission of the crime.*

(8) *During the commission of the crime, the inmate had a clear opportunity to cease but instead continued.*

(9) *The inmate has engaged in other reliably documented criminal conduct which was an integral part of the crime for which the inmate is currently committed to prison.*

(10) *The manner in which the crime was committed created a potential for serious injury to persons other than the victim of the crime.*

(11) *The inmate was on probation, parole, postrelease community supervision, or mandatory supervision or was in custody or had escaped from custody at the time of the commitment offense.*

(12) *The inmate was on any form of pre- or post-conviction release at the time of the commitment offense.*

(13) *The inmate's prior history of violence, whether as a juvenile or adult.*

(14) *The inmate has engaged in misconduct in prison or jail.*

(15) *The inmate is incarcerated for multiple cases from the same or different counties or jurisdictions.*

(e) *The following circumstances shall be considered by the hearing officer in determining whether the inmate is suitable for release:*

(1) *The inmate does not have a juvenile record of assaulting others or committing crimes with a potential of harm to victims.*

(2) *The inmate lacks any history of violent crime.*

(3) *The inmate has demonstrated remorse.*

(4) *The inmate's present age reduces the risk of recidivism.*

(5) *The inmate has made realistic plans if released or has developed marketable skills that can be put to use upon release.*

(6) *The inmate's institutional activities demonstrate an enhanced ability to function within the law upon release.*

(7) *The inmate participated in the crime under partially excusable circumstances which do not amount to a legal defense.*

(8) *The inmate had no apparent predisposition to commit the crime but was induced by others to participate in its commission.*

(9) *The inmate has a minimal or no criminal history.*

(10) *The inmate was a passive participant or played a minor role in the commission of the crime.*

(11) *The crime was committed during or due to an unusual situation unlikely to reoccur.*

SEC. 4.4. Section 3040.3 is added to the Penal Code, to read:

3040.3. (a) *An inmate whose current commitment includes a concurrent, consecutive, or stayed sentence for an offense or allegation defined as violent by subdivision (c) of Section 667.5 or Section 3040.1 shall be deemed a violent offender for purposes of Section 32 of Article I of the Constitution.*

(b) *An inmate whose current commitment includes an indeterminate sentence shall be deemed a violent offender for purposes of Section 32 of Article I of the Constitution.*

(c) *An inmate whose current commitment includes any enhancement which makes the underlying offense violent pursuant to subdivision (c) of Section 667.5 shall be deemed a violent offender for purposes of Section 32 of Article I of the Constitution.*

(d) *For purposes of Section 32 of Article I of the Constitution, the "full term" of the "primary offense" shall be calculated based only on actual days served on the commitment offense.*

SEC. 4.5. Section 3040.4 is added to the Penal Code, to read:

3040.4. *Pursuant to subdivision (b) of Section 28 of Article I of the Constitution, the department shall give reasonable notice to victims of crime prior to an inmate being reviewed for early parole and release. The department shall provide victims with the right to be heard regarding early parole consideration and to participate in the review process. The department shall consider the safety of the victims, the victims' family, and the general public when making a determination on early release.*

(a) *Prior to conducting a review for early parole, the department shall provide notice to the prosecuting agency or agencies and to registered victims, and shall make reasonable efforts to locate and notify victims who are not registered.*

(b) *The prosecuting agency shall have the right to review all information available to the hearing officer, including, but not limited to, the inmate's central file, documented adult and juvenile criminal history, institutional behavior, including both rehabilitative programming and institutional misconduct, any input from any person or organization advocating on behalf of the inmate, and any information submitted by the public.*

(c) *A victim shall have a right to submit a statement for purposes of early parole consideration, including a confidential statement.*

(d) *All prosecuting agencies, any involved law enforcement agency, and all victims, whether or not registered, shall have the right to respond to the board in writing.*

(e) Responses to the board by prosecuting agencies, law enforcement agencies, and victims must be made within 90 days of the date of notification of the inmate's eligibility for early parole review or consideration.

(f) The board shall notify the prosecuting agencies, law enforcement agencies, and the victims of the nonviolent offender parole decision within 10 days of the decision being made.

(g) Within 30 days of the notice of the final decision concerning nonviolent offender parole consideration, the inmate and the prosecuting agencies may request review of the decision.

(h) If an inmate is denied early release under the nonviolent offender parole provisions of Section 32 of Article I of the Constitution, the inmate shall not be eligible for early nonviolent offender parole consideration for two calendar years from the date of the final decision of the previous denial.

SEC. 4.6. Section 3041 of the Penal Code is amended to read:

3041. (a) (1) In the case of any inmate sentenced pursuant to any 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 sixth year before the inmate's minimum eligible parole date for the purposes of reviewing and documenting the inmate's activities and conduct pertinent to parole eligibility. During this consultation, the board shall provide the inmate information about the parole hearing process, legal factors relevant to his or her suitability or unsuitability for parole, and individualized recommendations for the inmate regarding his or her work assignments, rehabilitative programs, and institutional behavior. Within 30 days following the consultation, the board shall issue its positive and negative findings and recommendations to the inmate in writing.

(2) One year before the inmate's minimum eligible parole date a panel of two or more commissioners or deputy commissioners shall again meet with the inmate and shall normally grant parole as provided in Section 3041.5. No more than one member of the panel shall be a deputy commissioner.

(3) In the event of a tie vote, the matter shall be referred for an en banc review of the record that was before the panel that rendered the tie vote. Upon en banc review, the board shall vote to either grant or deny parole and render a statement of decision. The en banc review shall be conducted pursuant to subdivision (e).

(4) Upon a grant of parole, the inmate shall be released subject to all applicable review periods. However, an inmate shall not be released before reaching his or her minimum eligible parole date as set pursuant to Section 3046 unless the inmate is eligible for earlier release pursuant to his or her youth

offender parole eligibility date or elderly parole eligible eligibility date.

(5) 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 review is required to grant parole to any inmate.

(b) (1) The panel or the board, sitting en banc, shall grant parole to an inmate 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. *The panel or the board, sitting en banc, shall consider the entire criminal history of the inmate, including all current or past convicted offenses, in making this determination.*

(2) After July 30, 2001, 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.

(3) A decision of a panel shall not be disapproved and referred for rehearing except by a majority vote of the board, sitting en banc, following a public meeting.

(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 review by the board means a review conducted by a majority of commissioners holding office on the date the matter is heard by the board. An en banc review shall be conducted in compliance with the following:

(1) The commissioners conducting the review shall consider the entire record of the hearing that resulted in the tie vote.

(2) The review shall be limited to the record of the hearing. The record shall consist of the transcript or audiotape of the hearing, written or electronically recorded statements actually considered by the panel that produced the tie vote, and any other material actually considered by the panel. New evidence or comments shall not be considered in the en banc proceeding.

(3) The board shall separately state reasons for its decision to grant or deny parole.

(4) A commissioner who was involved in the tie vote shall be recused from consideration of the matter in the en banc review.

SEC. 4.7. Section 3454 of the Penal Code is amended to read:

3454. (a) Each supervising county agency, as established by the county board of supervisors pursuant to subdivision (a) of Section 3451, shall establish a review process for assessing and refining a person's program of postrelease supervision. Any additional postrelease supervision conditions shall be reasonably related to the underlying offense for which the offender spent time in prison, or to the offender's risk of recidivism, and the offender's criminal history, and be otherwise consistent with law.

(b) Each county agency responsible for postrelease supervision, as established by the county board of supervisors pursuant to subdivision (a) of Section 3451, may determine additional appropriate conditions of supervision listed in Section 3453 consistent with public safety, including the use of continuous electronic monitoring as defined in Section 1210.7, order the provision of appropriate rehabilitation and treatment services, determine appropriate incentives, and determine and order appropriate responses to alleged violations, which can include, but shall not be limited to, immediate,

structured, and intermediate sanctions up to and including referral to a reentry court pursuant to Section 3015, or flash incarceration in a city or county jail. Periods of flash incarceration are encouraged as one method of punishment for violations of an offender's condition of postrelease supervision.

(c) As used in this title, "flash incarceration" is a period of detention in a city or county jail due to a violation of an offender's conditions of postrelease supervision. The length of the detention period can range between one and 10 consecutive days. Flash incarceration is a tool that may be used by each county agency responsible for postrelease supervision. Shorter, but if necessary more frequent, periods of detention for violations of an offender's postrelease supervision conditions shall appropriately punish an offender while preventing the disruption in a work or home establishment that typically arises from longer term revocations.

(d) Upon a decision to impose a period of flash incarceration, the probation department shall notify the court, public defender, district attorney, and sheriff of each imposition of flash incarceration.

SEC. 4.8. Section 3455 of the Penal Code is amended to read:

3455. (a) If the supervising county agency has determined, following application of its assessment processes, that intermediate sanctions as authorized in subdivision (b) of Section 3454 are not appropriate, *or if the supervised person has violated the terms of the supervised person's release for a third time*, the supervising county agency shall petition the court pursuant to Section 1203.2 to revoke, modify, or terminate postrelease community supervision. At any point during the process initiated pursuant to this section, a person may waive, in writing, his or her right to counsel, admit the violation of his or her postrelease community supervision, waive a court hearing, and accept the proposed modification of his or her postrelease community supervision. The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of postrelease community supervision, the circumstances of the alleged underlying violation, the history and background of the violator, and any recommendations. The Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports. Upon a finding that the person has violated the conditions of postrelease community supervision, the revocation hearing officer shall have authority to do all of the following:

(1) Return the person to postrelease community supervision with modifications of conditions, if

appropriate, including a period of incarceration in a county jail.

(2) Revoke and terminate postrelease community supervision and order the person to confinement in a county jail.

(3) Refer the person to a reentry court pursuant to Section 3015 or other evidence-based program in the court's discretion.

(b) (1) At any time during the period of postrelease community supervision, if a peace officer, *including a probation officer*, has probable cause to believe a person subject to postrelease community supervision is violating any term or condition of his or her release, *or has failed to appear at a hearing pursuant to Section 1203.2 to revoke, modify, or terminate postrelease community supervision*, the officer may, without a warrant or other process, arrest the person and bring him or her before the supervising county agency established by the county board of supervisors pursuant to subdivision (a) of Section 3451. Additionally, an officer employed by the supervising county agency may seek a warrant and a court or its designated hearing officer appointed pursuant to Section 71622.5 of the Government Code shall have the authority to issue a warrant for that person's arrest.

(2) The court or its designated hearing officer shall have the authority to issue a warrant for a person who is the subject of a petition filed under this section who has failed to appear for a hearing on the petition or for any reason in the interests of justice, or to remand to custody a person who does appear at a hearing on the petition for any reason in the interests of justice.

(3) Unless a person subject to postrelease community supervision is otherwise serving a period of flash incarceration, whenever a person who is subject to this section is arrested, with or without a warrant or the filing of a petition for revocation, the court may order the release of the person under supervision from custody under any terms and conditions the court deems appropriate.

(c) The revocation hearing shall be held within a reasonable time after the filing of the revocation petition. Except as provided in paragraph (3) of subdivision (b), based upon a showing of a preponderance of the evidence that a person under supervision poses an unreasonable risk to public safety, or that the person may not appear if released from custody, or for any reason in the interests of justice, the supervising county agency shall have the authority to make a determination whether the person should remain in custody pending the first court appearance on a petition to revoke postrelease community supervision, and upon that determination, may order the person confined pending his or her first court appearance.

(d) Confinement pursuant to paragraphs (1) and (2) of subdivision (a) shall not exceed a period of 180 days in a county jail for each custodial sanction.

(e) A person shall not remain under supervision or in custody pursuant to this title on or after three years from the date of the person's initial entry onto postrelease community supervision, except when his or her supervision is tolled pursuant to Section 1203.2 or subdivision (b) of Section 3456.

SEC. 5. DNA Collection.

SEC. 5.1. Section 296 of the Penal Code is amended to read:

296. (a) The following persons shall provide buccal swab samples, right thumbprints, and a full palm print impression of each hand, and any blood specimens or other biological samples required pursuant to this chapter for law enforcement identification analysis:

(1) Any person, including any juvenile, who is convicted of or pleads guilty or no contest to any felony offense, or is found not guilty by reason of insanity of any felony offense, or any juvenile who is adjudicated under Section 602 of the Welfare and Institutions Code for committing any felony offense.

(2) Any adult person who is arrested for or charged with any of the following felony offenses:

(A) Any felony offense specified in Section 290 or attempt to commit any felony offense described in Section 290, or any felony offense that imposes upon a person the duty to register in California as a sex offender under Section 290.

(B) Murder or voluntary manslaughter or any attempt to commit murder or voluntary manslaughter.

(C) ~~Commencing on January 1 of the fifth year following enactment of the act that added this subparagraph, as amended, 1, 2009,~~ any adult person arrested or charged with any felony offense.

(3) Any person, including any juvenile, who is required to register under Section 290 *to 290.009, inclusive*, or Section 457.1 because of the commission of, or the attempt to commit, a felony or misdemeanor offense, or any person, including any juvenile, who is housed in a mental health facility or sex offender treatment program after referral to such facility or program by a court after being charged with any felony offense.

(4) *Any person, excluding a juvenile, who is convicted of, or pleads guilty or no contest to, any of the following offenses:*

(A) *A misdemeanor violation of Section 459.5.*

(B) *A violation of subdivision (a) of Section 473 that is punishable as a misdemeanor pursuant to subdivision (b) of Section 473.*

(C) A violation of subdivision (a) of Section 476a that is punishable as a misdemeanor pursuant to subdivision (b) of Section 476a.

(D) A violation of Section 487 that is punishable as a misdemeanor pursuant to Section 490.2.

(E) A violation of Section 496 that is punishable as a misdemeanor.

(F) A misdemeanor violation of subdivision (a) of Section 11350 of the Health and Safety Code.

(G) A misdemeanor violation of subdivision (a) of Section 11377 of the Health and Safety Code.

(H) A misdemeanor violation of paragraph (1) of subdivision (e) of Section 243.

(I) A misdemeanor violation of Section 273.5.

(J) A misdemeanor violation of paragraph (1) of subdivision (b) of Section 368.

(K) Any misdemeanor violation where the victim is defined as set forth in Section 6211 of the Family Code.

(L) A misdemeanor violation of paragraph (3) of subdivision (b) of Section 647.

(4) (5) The term “felony” as used in this subdivision includes an attempt to commit the offense.

(5) (6) Nothing in this chapter shall be construed as prohibiting collection and analysis of specimens, samples, or print impressions as a condition of a plea for a non-qualifying offense.

(b) The provisions of this chapter and its requirements for submission of specimens, samples and print impressions as soon as administratively practicable shall apply to all qualifying persons regardless of sentence imposed, including any sentence of death, life without the possibility of parole, or any life or indeterminate term, or any other disposition rendered in the case of an adult or juvenile tried as an adult, or whether the person is diverted, fined, or referred for evaluation, and regardless of disposition rendered or placement made in the case of a juvenile who is found to have committed any felony offense or is adjudicated under Section 602 of the Welfare and Institutions Code.

(c) The provisions of this chapter and its requirements for submission of specimens, samples, and print impressions as soon as administratively practicable by qualified persons as described in subdivision (a) shall apply regardless of placement or confinement in any mental hospital or other public or private treatment facility, and shall include, but not be limited to, the following persons, including juveniles:

(1) Any person committed to a state hospital or other treatment facility as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(2) Any person who has a severe mental disorder as set forth within the provisions of Article 4 (commencing with Section 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

(3) Any person found to be a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(d) The provisions of this chapter are mandatory and apply whether or not the court advises a person, including any juvenile, that he or she must provide the data bank and database specimens, samples, and print impressions as a condition of probation, parole, or any plea of guilty, no contest, or not guilty by reason of insanity, or any admission to any of the offenses described in subdivision (a).

(e) If at any stage of court proceedings the prosecuting attorney determines that specimens, samples, and print impressions required by this chapter have not already been taken from any person, as defined under subdivision (a) of Section 296, the prosecuting attorney shall notify the court orally on the record, or in writing, and request that the court order collection of the specimens, samples, and print impressions required by law. However, a failure by the prosecuting attorney or any other law enforcement agency to notify the court shall not relieve a person of the obligation to provide specimens, samples, and print impressions pursuant to this chapter.

(f) Prior to final disposition or sentencing in the case the court shall inquire and verify that the specimens, samples, and print impressions required by this chapter have been obtained and that this fact is included in the abstract of judgment or dispositional order in the case of a juvenile. The abstract of judgment issued by the court shall indicate that the court has ordered the person to comply with the requirements of this chapter and that the person shall be included in the state’s DNA and Forensic Identification Data Base and Data Bank program and be subject to this chapter.

However, failure by the court to verify specimen, sample, and print impression collection or enter these facts in the abstract of judgment or dispositional order in the case of a juvenile shall not invalidate an arrest, plea, conviction, or disposition, or otherwise relieve a person from the requirements of this chapter.

SEC. 6. Shoplifting.

SEC. 6.1. Section 459.5 of the Penal Code is amended to read:

459.5. (a) Notwithstanding Section 459, shoplifting is defined as entering a commercial establishment with intent to ~~commit larceny~~ steal retail property or merchandise while that establishment is open during regular business hours, where the value of the property that is taken or intended to be taken does not exceed nine hundred fifty dollars (\$950). Any other entry into

a commercial establishment with intent to commit larceny is burglary. Shoplifting shall be punished as a misdemeanor, except that a person with one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290 may be punished pursuant to subdivision (h) of Section 1170.

(b) Any act of shoplifting as defined in subdivision (a) shall be charged as shoplifting. No person who is charged with shoplifting may also be charged with burglary or theft of the same property.

(c) “Retail property or merchandise” means any article, product, commodity, item, or component intended to be sold in retail commerce.

(d) “Value” means the retail value of an item as advertised by the affected retail establishment, including applicable taxes.

(e) This section shall not apply to theft of a firearm, forgery, the unlawful sale, transfer, or conveyance of an access card pursuant to Section 484e, forgery of an access card pursuant to Section 484f, the unlawful use of an access card pursuant to Section 484g, theft from an elder pursuant to subdivision (e) of Section 368, receiving stolen property, embezzlement, or identity theft pursuant to Section 530.5, or the theft or unauthorized use of a vehicle pursuant to Section 10851 of the Vehicle Code.

SEC. 6.2. Section 490.2 of the Penal Code is amended to read:

490.2. (a) Notwithstanding Section 487 or any other provision of law defining grand theft, obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed nine hundred fifty dollars (\$950) shall be considered petty theft and shall be punished as a misdemeanor, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290.

(b) This section shall not be applicable to any theft that may be charged as an infraction pursuant to any other provision of law.

(c) This section shall not apply to theft of a firearm, forgery, the unlawful sale, transfer, or conveyance of an access card pursuant to Section 484e, forgery of an access card pursuant to Section 484f, the unlawful use of an access card pursuant to Section 484g, theft from an elder pursuant to subdivision (e) of Section 368, receiving stolen property, embezzlement, or identity theft pursuant to Section 530.5, or the theft or unauthorized use of a vehicle pursuant to Section 10851 of the Vehicle Code.

SEC. 7. Serial Theft.

SEC. 7.1. Section 490.3 is added to the Penal Code, to read:

490.3. (a) This section applies to the following crimes:

- (1) Petty theft.
- (2) Shoplifting.
- (3) Grand theft.
- (4) Burglary.
- (5) Carjacking.
- (6) Robbery.
- (7) Crime against an elder or dependent adult within the meaning of subdivision (d) or (e) of Section 368.
- (8) Any violation of Section 496.
- (9) Unlawful taking or driving of a vehicle within the meaning of Section 10851 of the Vehicle Code.
- (10) Forgery.
- (11) Unlawful sale, transfer, or conveyance of an access card pursuant to Section 484e.
- (12) Forgery of an access card pursuant to Section 484f.
- (13) Unlawful use of an access card pursuant to Section 484g.
- (14) Identity theft pursuant to Section 530.5.
- (15) Theft or unauthorized use of a vehicle pursuant to Section 10851 of the Vehicle Code.

(b) Notwithstanding paragraph (3) of subdivision (h) of Section 1170, paragraphs (2) and (4) of subdivision (a) of Section 1170.12, paragraphs (2) and (4) of subdivision (c) of Section 667, any person who, having been previously convicted of two or more of the offenses specified in subdivision (a), which offenses were committed on separate occasions, and who is subsequently convicted of petty theft or shoplifting where the value of the money, labor, or real or personal property taken exceeds two hundred fifty dollars (\$250) shall be punished by imprisonment in the county jail not exceeding one year, or imprisonment pursuant to subdivision (h) of Section 1170.

(c) This section does not prohibit a person or persons from being charged with any violation of law arising out of the same criminal transaction that violates this section.

SEC. 8. Organized Retail Theft.

SEC. 8.1. Section 490.4 is added to the Penal Code, to read:

490.4. (a) “Retail property or merchandise” means any article, product, commodity, item, or component intended to be sold in retail commerce.

(b) “Value” means the retail value of an item as advertised by the affected retail establishment, including applicable taxes.

(c) Any person, who, acting in concert with one or more other persons, commits two or more thefts pursuant to Section 459.5 or 490.2 of retail property or merchandise having an aggregate value exceeding two hundred fifty dollars (\$250) and unlawfully takes such property during a period of 180 days is guilty of organized retail theft.

(d) Notwithstanding paragraph (3) of subdivision (h) of Section 1170, paragraphs (2) and (4) of subdivision (a) of Section 1170.12, paragraphs (2) and (4) of subdivision (c) of Section 667, organized retail theft shall be punished by imprisonment in the county jail not exceeding one year, or imprisonment pursuant to subdivision (h) of Section 1170.

(e) For purposes of this section, the value of retail property stolen by persons acting in concert may be aggregated into a single count or charge, with the sum of the value of all of the retail merchandise being the values considered in determining the degree of theft.

(f) An offense under this section may be prosecuted in any county in which an underlying theft could have been prosecuted as a separate offense.

(g) This section does not prohibit a person or persons from being charged with any violation of law arising out of the same criminal transaction that violates this section.

SEC. 9. Amendments.

This act shall not be amended by the Legislature except by a statute that furthers the purposes, findings, and declarations of the act and is passed in each house by rollcall vote entered in the journal, three-fourths of the membership of each house concurring, or by a statute that becomes effective only when approved by the voters.

SEC. 10. Severability.

If any provision of this act, or any part of any provision, or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remaining provisions and applications which can be given effect without the invalid or unconstitutional provision or application shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

SEC. 11. Conflicting Initiatives.

(a) In the event that this measure and another measure addressing parole consideration pursuant to Section 32 of Article I of the Constitution, revocation of parole and postrelease community supervision, DNA collection, or theft offenses shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their

entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

PROPOSITION 21

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends sections of the Civil Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout~~ type and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The Rental Affordability Act

The people of the State of California do hereby ordain as follows:

SECTION 1. Title.

This act shall be known, and may be cited, as the "Rental Affordability Act."

SEC. 2. Findings and Declaration.

The people of the State of California hereby find and declare the following:

(a) More Californians (over 17 million people) are renting housing than ever before. According to the state's figures, home ownership rates in California have fallen to their lowest level since the 1940s. One quarter of older millennials (25–34 years of age) still live with their parents (U.S. Census Bureau).

(b) Rental housing prices have skyrocketed in recent years. Median rents are higher in California than any other state in the country, and among all 50 states, California has the fourth highest increase in rents.

(c) As a result of rising rental housing prices, a majority of California renters are overburdened by housing costs, paying more than 30 percent of their income toward rent. One-third of renter households spend more than 50 percent of their income toward rent.

(d) According to the National Low Income Housing Coalition, a Californian earning minimum wage would have to work 92 hours per week in order to afford renting an average one-bedroom apartment.

(e) Families faced with housing insecurity are often forced to decide between paying their rent and meeting other basic needs, which negatively impacts their health outcomes. Workers suffering from unstable housing and a deterioration in their health

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struggle to keep their jobs, pushing them into poverty and homelessness.

(f) Labor unions, such as the California Teachers Association, the California Nurses Association, and Service Employees International Union (SEIU), have made affordable housing a priority for their members. Teachers in California's urban centers are paying 40 percent to 70 percent of their salaries on housing, and many are being forced to live an hour or more from their jobs to afford a home.

(g) Even though the state represents only 12 percent of the total U.S. population, California is home to 22 percent of the nation's homeless population. (California Department of Housing and Community Development)

(h) According to a 2018 study in the UCLA Anderson Forecast, there is a strong link between higher median rents and the number of people living on the streets or in temporary shelters. When combined with individual at-risk factors, less affordable housing markets contribute to an increase in homelessness.

(i) Homelessness is a major public health issue. People who are homeless are three to four times more likely to die prematurely and are more likely to contract communicable diseases, according to the National Health Care for the Homeless Council.

(j) The Centers for Disease Control and Prevention warn that vulnerable populations face lower life expectancy, higher cancer rates, and more birth defects when they are displaced from their homes due to gentrification of their neighborhoods.

(k) The increased cost of housing is worsening traffic congestion and harming the environment by forcing commuters to live farther away from their places of employment, increasing commute times. A report by the Pew Charitable Trusts noted that the number of Californians who commute more than 90 minutes each way increased by 40 percent between 2010 and 2015; the increase is a direct result of the lack of affordable housing near jobs.

(l) A growing body of evidence suggests that stabilizing rents can bring broad-based benefits to renters, the state's economy, the environment, and its public services.

SEC. 3. Purposes and Intent.

The people of the State of California hereby declare the following purposes and intent in enacting this act:

(a) To allow California's cities and counties to develop and implement rent control policies that ensure renters can find and afford rental housing in their jurisdictions.

(b) To improve the quality of life for millions of California renters and reduce the number of Californians who face critical housing challenges and homelessness.

(c) To stem the tide of evictions and displacement affecting communities across California.

(d) To allow a city, county, or city and county to exercise any local law controlling the rental rates for residential property provided that it has been at least 15 years since the property received its certificate of occupancy.

(e) To allow local laws to control rental rates following a vacancy while permitting a landlord to increase the rental rates on a vacated unit by no more than 15 percent over the subsequent three years in addition to any other increase allowed under a local ordinance.

(f) To exempt the owners of one or two residential dwellings from any local rental control law.

SEC. 4. Section 1954.50 of the Civil Code is amended to read:

1954.50. This chapter shall be known and may be cited as the ~~Costa-Hawkins~~ Rental Housing Affordability Act.

SEC. 5. Section 1954.52 of the Civil Code is amended to read:

1954.52. (a) Notwithstanding any other provision of law, an owner of residential real property may establish the initial and all subsequent rental rates for a dwelling or a unit about which ~~any~~ *either* of the following is true:

(1) It has ~~a certificate of occupancy issued after February 1, 1995~~ *been issued its first residential certificate of occupancy within 15 years of the date on which the owner seeks to establish the initial or subsequent rental rate.*

(2) It ~~has already been exempt from the residential rent control ordinance of a public entity on or before February 1, 1995, pursuant to a local exemption for newly constructed units:~~

~~(A)~~ (A) It is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision, as specified in subdivision (b), (d), or (f) of Section 11004.5 of the Business and Professions Code, *and the owner is a natural person who owns no more than two residential dwelling or housing units.*

(B) This paragraph does not apply to either of the following:

(i) A dwelling or unit where the preceding tenancy has been terminated by the owner by notice pursuant to Section 1946.1 or has been terminated upon a change in the terms of the tenancy noticed pursuant to Section 827.

(ii) A condominium dwelling or unit that has not been sold separately by the subdivider to a bona fide purchaser for value. The initial rent amount of the unit for purposes of this chapter shall be the lawful rent in effect on May 7, 2001, unless the rent amount is governed by a different provision of this chapter. However, if a condominium dwelling or unit meets the

criteria of paragraph (1) or (2) of subdivision (a), or if all the dwellings or units except one have been sold separately by the subdivider to bona fide purchasers for value, and the subdivider has occupied that remaining unsold condominium dwelling or unit as his or her principal residence for at least one year after the subdivision occurred, then subparagraph (A) of paragraph (3) shall apply to that unsold condominium dwelling or unit.

~~(C) Where a dwelling or unit in which the initial or subsequent rental rates are controlled by an ordinance or charter provision in effect on January 1, 1995, the following shall apply:~~

~~(i) An owner of real property as described in this paragraph may establish the initial and all subsequent rental rates for all existing and new tenancies in effect on or after January 1, 1999, if the tenancy in effect on or after January 1, 1999, was created between January 1, 1996, and December 31, 1998.~~

~~(ii) Commencing on January 1, 1999, an owner of real property as described in this paragraph may establish the initial and all subsequent rental rates for all new tenancies if the previous tenancy was in effect on December 31, 1995.~~

~~(iii) The initial rental rate for a dwelling or unit as described in this paragraph in which the initial rental rate is controlled by an ordinance or charter provision in effect on January 1, 1995, may not, until January 1, 1999, exceed the amount calculated pursuant to subdivision (c) of Section 1954.53. An owner of residential real property as described in this paragraph may, until January 1, 1999, establish the initial rental rate for a dwelling or unit only where the tenant has voluntarily vacated, abandoned, or been evicted pursuant to paragraph (2) of Section 1161 of the Code of Civil Procedure.~~

(b) Subdivision (a) does not apply where the owner has otherwise agreed by contract with a public entity in consideration for a direct financial contribution or any other forms of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(c) Nothing in this section shall be construed to affect the authority of a public entity that may otherwise exist to regulate or monitor the basis for eviction.

(d) This section does not apply to any dwelling or unit that contains serious health, safety, fire, or building code violations, excluding those caused by disasters for which a citation has been issued by the appropriate governmental agency and which has remained unabated for six months or longer preceding the vacancy.

(e) In accordance with California law, a landlord's right to a fair rate of return on a property shall not be abridged by any local charter provision, ordinance, or regulation enacted by a city, county, or city and county.

SEC. 6. Section 1954.53 of the Civil Code is amended to read:

1954.53. (a) Notwithstanding any other provision of law, *and except as provided in Section 1954.52 and in subdivision (b) of this section, a city, county, or city and county may by local charter provision, ordinance, or regulation control the initial and all subsequent rental rates for residential real property. an owner of residential real property may establish the initial rental rate for a dwelling or unit, except where any of the following applies:*

~~(1) The previous tenancy has been terminated by the owner by notice pursuant to Section 1946.1 or has been terminated upon a change in the terms of the tenancy noticed pursuant to Section 827, except a change permitted by law in the amount of rent or fees. For the purpose of this paragraph, the owner's termination or nonrenewal of a contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant, shall be construed as a change in the terms of the tenancy pursuant to Section 827.~~

~~(A) In a jurisdiction that controls by ordinance or charter provision the rental rate for a dwelling or unit, an owner who terminates or fails to renew a contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant may not set an initial rent for three years following the date of the termination or nonrenewal of the contract or agreement. For any new tenancy established during the three-year period, the rental rate for a new tenancy established in that vacated dwelling or unit shall be at the same rate as the rent under the terminated or nonrenewed contract or recorded agreement with a governmental agency that provided for a rent limitation to a qualified tenant, plus any increases authorized after the termination or cancellation of the contract or recorded agreement.~~

~~(B) Subparagraph (A) does not apply to any new tenancy of 12 months or more duration established after January 1, 2000, pursuant to the owner's contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant, unless the prior vacancy in that dwelling or unit was pursuant to a nonrenewed or canceled contract or recorded agreement with a governmental agency that provides for a rent limitation to a qualified tenant as set forth in that subparagraph.~~

~~(2) The owner has otherwise agreed by contract with a public entity in consideration for a direct financial contribution or any other forms of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.~~

~~(3) The initial rental rate for a dwelling or unit whose initial rental rate is controlled by an ordinance or charter provision in effect on January 1, 1995, may~~

~~not until January 1, 1999, exceed the amount calculated pursuant to subdivision (c).~~

~~(b) Subdivision (a) applies to, and includes, renewal of the initial hiring by the same tenant, lessee, authorized subtenant, or authorized sublessee for the entire period of his or her occupancy at the rental rate established for the initial hiring.~~

~~(c) The~~

~~(b) In any jurisdiction that controls by charter provision, ordinance, or regulation the initial rental rate of a dwelling or unit, whose initial rental rate is controlled by ordinance or charter provision in effect on January 1, 1995, shall, until January 1, 1999, be established in accordance with this subdivision. Where if the previous tenant has voluntarily vacated, abandoned, or been evicted pursuant to paragraph (2) of Section 1161 of the Code of Civil Procedure, an the owner of the dwelling or unit shall be permitted to residential real property may, no more than twice, establish the initial rental rate for a the vacant or abandoned dwelling or unit in an amount that provided that the initial rate established pursuant to this subdivision, in combination with any increases in the rental rate during the subsequent three year period, is no greater than 15 percent more than the rental rate in effect for the immediately preceding tenancy or in an amount that is 70 percent of the prevailing market rent for comparable units, whichever amount is greater.~~

~~The Any increase in the initial rental rate permitted by and established pursuant to this subdivision may be in addition to any may not substitute for or replace increases in rental rates otherwise authorized pursuant to local law.~~

~~(d) (1) Nothing in this section or any other provision of law shall be construed to preclude express establishment in a lease or rental agreement of the rental rates to be applicable in the event the rental unit subject thereto is sublet. Nothing in this section shall be construed to impair the obligations of contracts entered into prior to January 1, 1996.~~

~~(2) If the original occupant or occupants who took possession of the dwelling or unit pursuant to the rental agreement with the owner no longer permanently reside there, an owner may increase the rent by any amount allowed by this section to a lawful sublessee or assignee who did not reside at the dwelling or unit prior to January 1, 1996.~~

~~(3) This subdivision does not apply to partial changes in occupancy of a dwelling or unit where one or more of the occupants of the premises, pursuant to the agreement with the owner provided for above, remains an occupant in lawful possession of the dwelling or unit, or where a lawful sublessee or assignee who resided at the dwelling or unit prior to January 1, 1996, remains in possession of the dwelling or unit. Nothing contained in this section shall be construed~~

~~to enlarge or diminish an owner's right to withhold consent to a sublease or assignment.~~

~~(4) Acceptance of rent by the owner does not operate as a waiver or otherwise prevent enforcement of a covenant prohibiting sublease or assignment or as a waiver of an owner's rights to establish the initial rental rate, unless the owner has received written notice from the tenant that is party to the agreement and thereafter accepted rent.~~

~~(e) (c) Nothing in this section shall be construed to affect any authority of a public entity that may otherwise exist to regulate or monitor the grounds for eviction.~~

~~(f) This section (d) Subdivision (b) does not apply to any dwelling or unit if all the following conditions are met:~~

~~(1) The dwelling or unit has been cited in an inspection report by the appropriate governmental agency as containing serious health, safety, fire, or building code violations, as defined by Section 17920.3 of the Health and Safety Code, excluding any violation caused by a disaster.~~

~~(2) The citation was issued at least 60 days prior to the date of the vacancy.~~

~~(3) The cited violation had not been abated when the prior tenant vacated and had remained unabated for 60 days or for a longer period of time. However, the 60-day time period may be extended by the appropriate governmental agency that issued the citation.~~

SEC. 7. Liberal Construction.

This act shall be broadly construed to accomplish its purposes.

SEC. 8. Amendment and Repeal.

Pursuant to subdivision (c) of Section 10 of Article II of the California Constitution, the Legislature may amend this act to further its purposes by a statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, signed by the Governor. No statute restricting or eliminating the powers that have been restored by this act to a city, county, or city and county to establish residential rental rates shall become effective unless approved by a majority of the electorate.

SEC. 9. Severability.

If any provision of this act or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 10. Conflicting Measures.

If this act and any other measure addressing the authority of local government agencies to establish residential rental rates shall appear on the same

statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this act. If this act receives a greater number of affirmative votes than another measure deemed to be in conflict with it, the provisions of this act shall prevail in their entirety, and the other measure or measures shall be null and void.

PROPOSITION 22

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Business and Professions Code and amends a section of the Revenue and Taxation Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Chapter 10.5 (commencing with Section 7448) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 10.5. APP-BASED DRIVERS AND SERVICES

Article 1. Title, Findings and Declarations, and Statement of Purpose

7448. Title. This chapter shall be known, and may be cited, as the Protect App-Based Drivers and Services Act.

7449. Findings and Declarations. The people of the State of California find and declare as follows:

(a) Hundreds of thousands of Californians are choosing to work as independent contractors in the modern economy using app-based rideshare and delivery platforms to transport passengers and deliver food, groceries, and other goods as a means of earning income while maintaining the flexibility to decide when, where, and how they work.

(b) These app-based rideshare and delivery drivers include parents who want to work flexible schedules while children are in school; students who want to earn money in between classes; retirees who rideshare or deliver a few hours a week to supplement fixed incomes and for social interaction; military spouses and partners who frequently relocate; and families struggling with California's high cost of living that need to earn extra income.

(c) Millions of California consumers and businesses, and our state's economy as a whole, also benefit from the services of people who work as independent contractors using app-based rideshare and delivery platforms. App-based rideshare and delivery drivers are providing convenient and affordable transportation for the public, reducing impaired and drunk driving, improving mobility for seniors and individuals with disabilities, providing new transportation options for

families who cannot afford a vehicle, and providing new affordable and convenient delivery options for grocery stores, restaurants, retailers, and other local businesses and their patrons.

(d) However, recent legislation has threatened to take away the flexible work opportunities of hundreds of thousands of Californians, potentially forcing them into set shifts and mandatory hours, taking away their ability to make their own decisions about the jobs they take and the hours they work.

(e) Protecting the ability of Californians to work as independent contractors throughout the state using app-based rideshare and delivery platforms is necessary so people can continue to choose which jobs they take, to work as often or as little as they like, and to work with multiple platforms or companies, all the while preserving access to app-based rideshare and delivery services that are beneficial to consumers, small businesses, and the California economy.

(f) App-based rideshare and delivery drivers deserve economic security. This chapter is necessary to protect their freedom to work independently, while also providing these workers new benefits and protections not available under current law. These benefits and protections include a healthcare subsidy consistent with the average contributions required under the Affordable Care Act (ACA); a new minimum earnings guarantee tied to 120 percent of minimum wage with no maximum; compensation for vehicle expenses; occupational accident insurance to cover on-the-job injuries; and protection against discrimination and sexual harassment.

(g) California law and rideshare and delivery network companies should protect the safety of both drivers and consumers without affecting the right of app-based rideshare and delivery drivers to work as independent contractors. Such protections should, at a minimum, include criminal background checks of drivers; zero tolerance policies for drug- and alcohol-related offenses; and driver safety training.

7450. Statement of Purpose. The purposes of this chapter are as follows:

(a) To protect the basic legal right of Californians to choose to work as independent contractors with rideshare and delivery network companies throughout the state.

(b) To protect the individual right of every app-based rideshare and delivery driver to have the flexibility to set their own hours for when, where, and how they work.

(c) To require rideshare and delivery network companies to offer new protections and benefits for app-based rideshare and delivery drivers, including minimum compensation levels, insurance to cover on-the-job injuries, automobile accident insurance, health care subsidies for qualifying drivers, protection

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against harassment and discrimination, and mandatory contractual rights and appeal processes.

(d) To improve public safety by requiring criminal background checks, driver safety training, and other safety provisions to help ensure app-based rideshare and delivery drivers do not pose a threat to customers or the public.

Article 2. App-Based Driver Independence

7451. *Protecting Independence.* Notwithstanding any other provision of law, including, but not limited to, the Labor Code, the Unemployment Insurance Code, and any orders, regulations, or opinions of the Department of Industrial Relations or any board, division, or commission within the Department of Industrial Relations, an app-based driver is an independent contractor and not an employee or agent with respect to the app-based driver's relationship with a network company if the following conditions are met:

(a) The network company does not unilaterally prescribe specific dates, times of day, or a minimum number of hours during which the app-based driver must be logged into the network company's online-enabled application or platform.

(b) The network company does not require the app-based driver to accept any specific rideshare service or delivery service request as a condition of maintaining access to the network company's online-enabled application or platform.

(c) The network company does not restrict the app-based driver from performing rideshare services or delivery services through other network companies except during engaged time.

(d) The network company does not restrict the app-based driver from working in any other lawful occupation or business.

7452. *Contract and Termination Provisions.* (a) A network company and an app-based driver shall enter into a written agreement prior to the driver receiving access to the network company's online-enabled application or platform.

(b) A network company shall not terminate a contract with an app-based driver unless based upon a ground specified in the contract.

(c) Network companies shall provide an appeals process for app-based drivers whose contracts are terminated by the network company.

7452.5. *Independence Unaffected.* Nothing in Article 3 (commencing with Section 7453) to Article 11 (commencing with Section 7467), inclusive, of this chapter shall be interpreted to in any way alter the relationship between a network company and an app-based driver for whom the conditions set forth in Section 7451 are satisfied.

Article 3. Compensation

7453. *Earnings Guarantee.* (a) A network company shall ensure that for each earnings period, an app-based driver is compensated at not less than the net earnings floor as set forth in this section. The net earnings floor establishes a guaranteed minimum level of compensation for app-based drivers that cannot be reduced. In no way does the net earnings floor prohibit app-based drivers from earning a higher level of compensation.

(b) For each earnings period, a network company shall compare an app-based driver's net earnings against the net earnings floor for that app-based driver during the earnings period. In the event that the app-based driver's net earnings in the earnings period are less than the net earnings floor for that earnings period, the network company shall include an additional sum accounting for the difference in the app-based driver's earnings no later than during the next earnings period.

(c) No network company or agent shall take, receive, or retain any gratuity or a part thereof that is paid, given to, or left for an app-based driver by a customer or deduct any amount from the earnings due to an app-based driver for a ride or delivery on account of a gratuity paid in connection with the ride or delivery. A network company that permits customers to pay gratuities by credit card shall pay the app-based driver the full amount of the gratuity that the customer indicated on the credit card receipt, without any deductions for any credit card payment processing fees or costs that may be charged to the network company by the credit card company.

(d) For purposes of this chapter, the following definitions apply:

(1) "Applicable minimum wage" means the state mandated minimum wage for all industries or, if a passenger or item is picked up within the boundaries of a local government that has a higher minimum wage that is generally applicable to all industries, the local minimum wage of that local government. The applicable minimum wage shall be determined at the location where a passenger or item is picked up and shall apply for all engaged time spent completing that rideshare request or delivery request.

(2) "Earnings period" means a pay period, set by the network company, not to exceed 14 consecutive calendar days.

(3) "Net earnings" means all earnings received by an app-based driver in an earnings period, provided that the amount conforms to both of the following standards:

(A) The amount does not include gratuities, tolls, cleaning fees, airport fees, or other customer pass-throughs.

(B) The amount may include incentives or other bonuses.

(4) “Net earnings floor” means, for any earnings period, a total amount that is comprised of:

(A) For all engaged time, the sum of 120 percent of the applicable minimum wage for that engaged time.

(B) (i) The per-mile compensation for vehicle expenses set forth in this subparagraph multiplied by the total number of engaged miles.

(ii) After the effective date of this chapter and for the 2021 calendar year, the per-mile compensation for vehicle expenses shall be thirty cents (\$0.30) per engaged mile. For calendar years after 2021, the amount per engaged mile shall be adjusted pursuant to clause (iii).

(iii) For calendar years following 2021, the per-mile compensation for vehicle expenses described in clause (ii) shall be adjusted annually to reflect any increase in inflation as measured by the Consumer Price Index for All Urban Consumers (CPI-U) published by the United States Bureau of Labor Statistics. The Treasurer’s Office shall calculate and publish the adjustments required by this subparagraph.

(e) Nothing in this section shall be interpreted to require a network company to provide a particular amount of compensation to an app-based driver for any given rideshare or delivery request, as long as the app-based driver’s net earnings for each earnings period equals or exceeds that app-based driver’s net earnings floor for that earnings period as set forth in subdivision (b). For clarity, the net earnings floor in this section may be calculated on an average basis over the course of each earnings period.

Article 4. Benefits

7454. *Healthcare Subsidy.* (a) Consistent with the average contributions required under the Affordable Care Act (ACA), a network company shall provide a quarterly health care subsidy to qualifying app-based drivers as set forth in this section. An app-based driver that averages the following amounts of engaged time per week on a network company’s platform during a calendar quarter shall receive the following subsidies from that network company:

(1) For an average of 25 hours or more per week of engaged time in the calendar quarter, a payment greater than or equal to 100 percent of the average ACA contribution for the applicable average monthly Covered California premium for each month in the quarter.

(2) For an average of at least 15 but less than 25 hours per week of engaged time in the calendar quarter, a payment greater than or equal to 50 percent of the average ACA contribution for the applicable average monthly Covered California premium for each month in the quarter.

(b) At the end of each earnings period, a network company shall provide to each app-based driver the following information:

(1) The number of hours of engaged time the app-based driver accrued on the network company’s online-enabled application or platform during that earnings period.

(2) The number of hours of engaged time the app-based driver has accrued on the network company’s online-enabled application or platform during the current calendar quarter up to that point.

(c) Covered California may adopt or amend regulations as it deems appropriate to permit app-based drivers receiving subsidies pursuant to this section to enroll in health plans through Covered California.

(d) (1) As a condition of providing the health care subsidy set forth in subdivision (a), a network company may require an app-based driver to submit proof of current enrollment in a qualifying health plan. Proof of current enrollment may include, but is not limited to, health insurance membership or identification cards, evidence of coverage and disclosure forms from the health plan, or claim forms and other documents necessary to submit claims.

(2) An app-based driver shall have not less than 15 calendar days from the end of the calendar quarter to provide proof of enrollment as set forth in paragraph (1).

(3) A network company shall provide a health care subsidy due for a calendar quarter under subdivision (a) within 15 days of the end of the calendar quarter or within 15 days of the app-based driver’s submission of proof of enrollment as set forth in paragraph (1), whichever is later.

(e) For purposes of this section, a calendar quarter refers to the following four periods of time:

(1) January 1 through March 31.

(2) April 1 through June 30.

(3) July 1 through September 30.

(4) October 1 through December 31.

(f) Nothing in this section shall be interpreted to prevent an app-based driver from receiving a health care subsidy from more than one network company for the same calendar quarter.

(g) On or before December 31, 2020, and on or before each September 1 thereafter, Covered California shall publish the average statewide monthly premium for an individual for the following calendar year for a Covered California bronze health insurance plan.

(h) This section shall become inoperative in the event the United States or the State of California implements a universal health care system or substantially similar system that expands coverage to the recipients of subsidies under this section.

7455. *Loss and Liability Protection.* No network company shall operate in California for more than 90 days unless the network company carries, provides, or otherwise makes available the following insurance coverage:

(a) For the benefit of app-based drivers, occupational accident insurance to cover medical expenses and lost income resulting from injuries suffered while the app-based driver is online with a network company's online-enabled application or platform. Policies shall at a minimum provide the following:

(1) Coverage for medical expenses incurred, up to at least one million dollars (\$1,000,000).

(2) (A) Disability payments equal to 66 percent of the app-based driver's average weekly earnings from all network companies as of the date of injury, with minimum and maximum weekly payment rates to be determined in accordance with subdivision (a) of Section 4453 of the Labor Code for up to the first 104 weeks following the injury.

(B) "Average weekly earnings" means the app-based driver's total earnings from all network companies during the 28 days prior to the covered accident divided by four.

(b) For the benefit of spouses, children, or other dependents of app-based drivers, accidental death insurance for injuries suffered by an app-based driver while the app-based driver is online with the network company's online-enabled application or platform that result in death. For purposes of this subdivision, burial expenses and death benefits shall be determined in accordance with Section 4701 and Section 4702 of the Labor Code.

(c) For the purposes of this section, "online" means the time when an app-based driver is utilizing a network company's online-enabled application or platform and can receive requests for rideshare services or delivery services from the network company, or during engaged time.

(d) Occupational accident insurance or accidental death insurance under subdivisions (a) and (b) shall not be required to cover an accident that occurs while online but outside of engaged time where the injured app-based driver is in engaged time on one or more other network company platforms or where the app-based driver is engaged in personal activities. If an accident is covered by occupational accident insurance or accidental death insurance maintained by more than one network company, the insurer of the network company against whom a claim is filed is entitled to contribution for the pro-rata share of coverage attributable to one or more other network companies up to the coverages and limits in subdivisions (a) and (b).

(e) Any benefits provided to an app-based driver under subdivision (a) or (b) of this section shall be considered amounts payable under a worker's

compensation law or disability benefit for the purpose of determining amounts payable under any insurance provided under Article 2 (commencing with Section 11580) of Chapter 1 of Part 3 of Division 2 of the Insurance Code.

(f) (1) For the benefit of the public, a DNC as defined in Section 7463 shall maintain automobile liability insurance of at least one million dollars (\$1,000,000) per occurrence to compensate third parties for injuries or losses proximately caused by the operation of an automobile by an app-based driver during engaged time in instances where the automobile is not otherwise covered by a policy that complies with subdivision (b) of Section 11580.1 of the Insurance Code.

(2) For the benefit of the public, a TNC as defined in Section 7463 shall maintain liability insurance policies as required by Article 7 (commencing with Section 5430) of Chapter 8 of Division 2 of the Public Utilities Code.

(3) For the benefit of the public, a TCP as defined in Section 7463 shall maintain liability insurance policies as required by Article 4 (commencing with Section 5391) of Chapter 8 of Division 2 of the Public Utilities Code.

Article 5. Antidiscrimination and Public Safety

7456. *Antidiscrimination.* (a) It is an unlawful practice, unless based upon a bona fide occupational qualification or public or app-based driver safety need, for a network company to refuse to contract with, terminate the contract of, or deactivate from the network company's online-enabled application or platform, any app-based driver or prospective app-based driver based upon race, color, ancestry, national origin, religion, creed, age, physical or mental disability, sex, gender, sexual orientation, gender identity or expression, medical condition, genetic information, marital status, or military or veteran status.

(b) Claims brought pursuant to this section shall be brought solely under the procedures established by the Unruh Civil Rights Act (Section 51 of the Civil Code) and will be governed by its requirements and remedies.

7457. *Sexual Harassment Prevention.* (a) A network company shall develop a sexual harassment policy intended to protect app-based drivers and members of the public using rideshare services or delivery services. The policy shall be available on the network company's internet website. The policy shall, at a minimum, do all of the following:

(1) Identify behaviors that may constitute sexual harassment, including the following: unwanted sexual advances; leering, gestures, or displaying sexually suggestive objects, pictures, cartoons, or posters; derogatory comments, epithets, slurs, or jokes;

graphic comments, sexually degrading words, or suggestive or obscene messages or invitations; and physical touching or assault, as well as impeding or blocking movements.

(2) Indicate that the network company, and in many instances the law, prohibits app-based drivers and customers utilizing rideshare services or delivery services from committing prohibited harassment.

(3) Establish a process for app-based drivers, customers, and rideshare passengers to submit complaints that ensures confidentiality to the extent possible; an impartial and timely investigation; and remedial actions and resolutions based on the information collected during the investigation process.

(4) Provide an opportunity for app-based drivers and customers utilizing rideshare services or delivery services to submit complaints electronically so complaints can be resolved quickly.

(5) Indicate that when the network company receives allegations of misconduct, it will conduct a fair, timely, and thorough investigation to reach reasonable conclusions based on the information collected.

(6) Make clear that neither app-based drivers nor customers utilizing rideshare services or delivery services shall be retaliated against as a result of making a good faith complaint or participating in an investigation against another app-based driver, customer, or rideshare passenger.

(b) Prior to providing rideshare services or delivery services through a network company's online-enabled application or platform, an app-based driver shall do both of the following:

(1) Review the network company's sexual harassment policy.

(2) Confirm to the network company, for which electronic confirmation shall suffice, that the app-based driver has reviewed the network company's sexual harassment policy.

(c) Claims brought pursuant to this section shall be brought solely under the procedures established by the Unruh Civil Rights Act (Section 51 of the Civil Code) and will be governed by its requirements and remedies.

7458. *Criminal Background Checks.* (a) A network company shall conduct, or have a third party conduct, an initial local and national criminal background check for each app-based driver who uses the network company's online-enabled application or platform to provide rideshare services or delivery services. The background check shall be consistent with the standards contained in subdivision (a) of Section 5445.2 of the Public Utilities Code. Notwithstanding any other provision of law to the contrary, after an app-based driver's consent is obtained by a network company for an initial background check, no additional consent shall be required for the continual

monitoring of that app-based driver's criminal history if the network company elects to undertake such continual monitoring.

(b) A network company shall complete the initial criminal background check as required by subdivision (a) prior to permitting an app-based driver to utilize the network company's online-enabled application or platform. The network company shall provide physical or electronic copies or summaries of the initial criminal background check to the app-based driver.

(c) An app-based driver shall not be permitted to utilize a network company's online-enabled application or platform if one of the following applies:

(1) The driver has ever been convicted of any crime listed in subparagraph (B) of paragraph (2) of subdivision (a) of Section 5445.2 of the Public Utilities Code, any serious felony as defined by subdivision (c) of Section 1192.7 of the Penal Code, or any hate crime as defined by Section 422.55 of the Penal Code.

(2) The driver has been convicted within the last seven years of any crime listed in paragraph (3) of subdivision (a) of Section 5445.2 of the Public Utilities Code.

(d) (1) The ability of an app-based driver to utilize a network company's online-enabled application or platform may be suspended if the network company learns the driver has been arrested for any crime listed in either of the following:

(A) Subparagraph (B) of paragraph (2), or paragraph (3), of subdivision (a) of Section 5445.2 of the Public Utilities Code.

(B) Subdivision (c) of this section.

(2) The suspension described in paragraph (1) may be lifted upon the disposition of an arrest for any crime listed in subparagraph (B) of paragraph (2), or paragraph (3), of subdivision (a) of Section 5445.2 of the Public Utilities Code that does not result in a conviction. Such disposition includes a finding of factual innocence from any relevant charge, an acquittal at trial, an affidavit indicating the prosecuting attorney with jurisdiction over the alleged offense has declined to file a criminal complaint, or an affidavit indicating all relevant time periods described in Chapter 2 (commencing with Section 799) of Title 3 of Part 2 of the Penal Code have expired.

(e) Nothing in this section shall be interpreted to prevent a network company from imposing additional standards relating to criminal history.

(f) Notwithstanding Section 1786.12 of the Civil Code, an investigative consumer reporting agency may furnish an investigative consumer report to a network company about a person seeking to become an app-based driver, regardless of whether the app-based

driver is to be an employee or an independent contractor of the network company.

7459. *Safety Training.* (a) A network company shall require an app-based driver to complete the training described in this section prior to allowing the app-based driver to utilize the network company's online-enabled application or platform.

(b) A network company shall provide each app-based driver safety training. The safety training required by this section shall include the following subjects:

(1) Collision avoidance and defensive driving techniques.

(2) Identification of collision-causing elements such as excessive speed, DUI, and distracted driving.

(3) Recognition and reporting of sexual assault and misconduct.

(4) For app-based drivers delivering prepared food or groceries, food safety information relevant to the delivery of food, including temperature control.

(c) The training may, at the discretion of the network company, be provided via online, video, or in-person training.

(d) Notwithstanding subdivision (a), any app-based driver that has entered into a contract with a network company prior to January 1, 2021, to provide rideshare services or delivery services shall have until July 1, 2021, to complete the safety training required by this section, and may continue to provide rideshare services or delivery services through the network company's online-enabled application or platform until that date. On and after July 1, 2021, app-based drivers described in this subdivision must complete the training required by this section in order to continue providing rideshare services and delivery services.

(e) Any safety product, feature, process, policy, standard, or other effort undertaken by a network company, or the provision of equipment by a network company, to further public safety is not an indicia of an employment or agency relationship with an app-based driver.

7460. *Zero Tolerance Policies.* (a) A network company shall institute a "zero tolerance policy" that mandates prompt suspension of an app-based driver's access to the network company's online-enabled application or platform in any instance in which the network company receives a report through its online-enabled application or platform, or by any other company-approved method, from any person who reasonably suspects the app-based driver is under the influence of drugs or alcohol while providing rideshare services or delivery services.

(b) Upon receiving a report described in subdivision (a), a network company shall promptly suspend the app-based driver from the company's online-enabled application or platform for further investigation.

(c) A network company may suspend access to the network company's online-enabled application or platform for any app-based driver or customer found to be reporting an alleged violation of a zero tolerance policy as described in subdivision (a) where that driver or customer knows the report to be unfounded or based the report on an intent to inappropriately deny a driver access to the online-enabled application or platform.

7460.5. A network company shall make continuously and exclusively available to law enforcement a mechanism to submit requests for information to aid in investigations related to emergency situations, exigent circumstances, and critical incidents.

7461. *App-based Driver Rest.* An app-based driver shall not be logged in and driving on a network company's online-enabled application or platform for more than a cumulative total of 12 hours in any 24-hour period, unless that driver has already logged off for an uninterrupted period of 6 hours. If an app-based driver has been logged on and driving for more than a cumulative total of 12 hours in any 24-hour period, without logging off for an uninterrupted period of 6 hours, the driver shall be prohibited from logging back into the network company's online-enabled application or platform for an uninterrupted period of at least 6 hours.

7462. *Impersonating an App-Based Driver.* (a) Any person who fraudulently impersonates an app-based driver while providing or attempting to provide rideshare or delivery services shall be guilty of a misdemeanor, and is punishable by imprisonment in a county jail for up to six months, or a fine of up to ten thousand dollars (\$10,000), or both. Nothing in this subdivision precludes prosecution under any other law.

(b) In addition to any other penalty provided by law, any person who fraudulently impersonates an app-based driver while providing or attempting to provide rideshare services or delivery services in the commission or attempted commission of an offense described in Section 207, 209, 220, 261, 264.1, 286, 287, 288, or 289 of the Penal Code shall be sentenced to an additional term of five years.

(c) In addition to any other penalty provided by law, any person who fraudulently impersonates an app-based driver while providing or attempting to provide rideshare services or delivery services in the commission of a felony or attempted felony and in so doing personally inflicts great bodily injury to another person other than an accomplice shall be sentenced to an additional term of five years.

(d) In addition to any other penalty provided by law, any person who fraudulently impersonates an app-based driver while providing or attempting to provide rideshare services or delivery services in the

commission of a felony or attempted felony and in so doing causes the death of another person other than an accomplice shall be sentenced to an additional term of 10 years.

Article 6. Definitions

7463. For purposes of this chapter, the following definitions shall apply:

(a) “App-based driver” means an individual who is a DNC courier, TNC driver, or TCP driver or permit holder; and for whom the conditions set forth in subdivisions (a) to (d), inclusive, of Section 7451 are satisfied.

(b) “Average ACA contribution” means 82 percent of the dollar amount of the average monthly Covered California premium.

(c) “Average monthly Covered California premium” equals the dollar amount published pursuant to subdivision (g) of Section 7454.

(d) “Covered California” means the California Health Benefit Exchange, codified in Title 22 (commencing with Section 100500) of the Government Code.

(e) “Customer” means one or more natural persons or business entities.

(f) “Delivery network company” (DNC) means a business entity that maintains an online-enabled application or platform used to facilitate delivery services within the State of California on an on-demand basis, and maintains a record of the amount of engaged time and engaged miles accumulated by DNC couriers. Deliveries are facilitated on an on-demand basis if DNC couriers are provided with the option to accept or decline each delivery request and the DNC does not require the DNC courier to accept any specific delivery request as a condition of maintaining access to the DNC’s online-enabled application or platform.

(g) “Delivery network company courier” (DNC courier) means an individual who provides delivery services through a DNC’s online-enabled application or platform.

(h) “Delivery services” means the fulfillment of delivery requests, meaning the pickup from any location of any item or items and the delivery of the items using a passenger vehicle, bicycle, scooter, walking, public transportation, or other similar means of transportation, to a location selected by the customer located within 50 miles of the pickup location. A delivery request may include more than one, but not more than 12, distinct orders placed by different customers. Delivery services may include the selection, collection, or purchase of items by a DNC courier provided that those tasks are done in connection with a delivery that the DNC courier has agreed to deliver. Delivery services do not include deliveries that are subject to Section 26090, as that section read on October 29, 2019.

(i) “Engaged miles” means all miles driven during engaged time in a passenger vehicle that is not owned, leased, or rented by the network company.

(j) (1) “Engaged time” means, subject to the conditions set forth in paragraph (2), the period of time, as recorded in a network company’s online-enabled application or platform, from when an app-based driver accepts a rideshare request or delivery request to when the app-based driver completes that rideshare request or delivery request.

(2) (A) Engaged time shall not include the following:

(i) Any time spent performing a rideshare service or delivery service after the request has been cancelled by the customer.

(ii) Any time spent on a rideshare service or delivery service where the app-based driver abandons performance of the service prior to completion.

(B) Network companies may also exclude time if doing so is reasonably necessary to remedy or prevent fraudulent use of the network company’s online-enabled application or platform.

(k) “Local government” means a city, county, city and county, charter city, or charter county.

(l) “Network company” means a business entity that is a DNC or a TNC.

(m) “Passenger vehicle” means a passenger vehicle as defined in Section 465 of the Vehicle Code.

(n) “Qualifying health plan” means a health insurance plan in which the app-based driver is the subscriber, that is not sponsored by an employer, and that is not a Medicare or Medicaid plan.

(o) “Rideshare service” means the transportation of one or more persons.

(p) “Transportation network company” (TNC) has the same meaning as the definition contained in subdivision (c) of Section 5431 of the Public Utilities Code.

(q) “Transportation network company driver” (TNC driver) has the same meaning as the definition of driver contained in subdivision (a) of Section 5431 of the Public Utilities Code.

(r) “Charter-party carrier of passengers” (TCP) shall have the same meaning as the definition contained in Section 5360 of the Public Utilities Code, provided the driver is providing rideshare services using a passenger vehicle through a network company’s online-enabled application or platform.

Article 7. Uniform Work Standards

7464. (a) The performance of a single rideshare service or delivery service frequently requires an app-based driver to travel across the jurisdictional boundaries of multiple local governments. California has over 500 cities and counties, which can lead to

overlapping, inconsistent, and contradictory local regulations for cross-jurisdictional services.

(b) In light of the cross-jurisdictional nature of the rideshare services and delivery services, and in addition to the other requirements and standards established by this chapter, the state hereby occupies the field in the following areas:

(1) App-based driver compensation and gratuity, except as provided in Section 7453.

(2) App-based driver scheduling, leave, health care subsidies, and any other work-related stipends, subsidies, or benefits.

(3) App-based driver licensing and insurance requirements.

(4) App-based driver rights with respect to a network company's termination of an app-based driver's contract.

(c) Notwithstanding subdivision (b), nothing in this section shall limit a local government's ability to adopt local ordinances necessary to punish the commission of misdemeanor and felony crimes or to enforce local ordinances and regulations enacted prior to October 29, 2019.

Article 8. Income Reporting

7464.5 (a) A network company that is acting as a third-party settlement organization shall prepare an information return for each participating payee who is an app-based driver with a California address that has a gross amount of reportable payment transactions equal to or greater than six hundred dollars (\$600) during a calendar year, irrespective of the number of transactions between the third-party settlement organization and the payee. A third-party settlement organization must report these amounts to the Franchise Tax Board and furnish a copy to the payee, even if it does not have a federal reporting obligation. The information return shall identify the following:

(1) The name, address, and tax identification number of the participating payee.

(2) The gross amount of the reportable payment transactions with respect to the participating payee.

(b) Within 30 days following the date such an information return would be due to the Internal Revenue Service, a network company shall file a copy of any information return required by subdivision (a) with the Franchise Tax Board and shall provide a copy to the participating payee.

(c) A network company may fulfill this requirement by submitting a copy of Internal Revenue Service Form 1099-K or by submitting a form provided by the Franchise Tax Board that includes the same information as that on Cal-1099-K.

(d) For purposes of this section:

(1) "Participating payee" has the same meaning as provided in Section 6050W(d)(1)(A)(ii) of Title 26 of the United States Code.

(2) "Reportable payment transaction" has the same meaning as provided in Section 6050W(c)(1) of Title 26 of the United States Code.

(3) "Third-party settlement organization" has the same meaning as provided in Section 6050W(b)(3) of Title 26 of the United States Code.

(e) This section shall not apply in instances where the gross amount of reportable payment transactions for a participating payee in a calendar year is less than six hundred dollars (\$600) or where the participating payee is not an app-based driver.

(f) This section shall apply to reportable payment transactions occurring on or after January 1, 2021.

Article 9. Amendment

7465. (a) After the effective date of this chapter, the Legislature may amend this chapter by a statute passed in each house of the Legislature by rollcall vote entered into the journal, seven-eighths of the membership concurring, provided that the statute is consistent with, and furthers the purpose of, this chapter. No bill seeking to amend this chapter after the effective date of this chapter may be passed or ultimately become a statute unless the bill has been printed and distributed to members, and published on the internet, in its final form, for at least 12 business days prior to its passage in either house of the Legislature.

(b) No statute enacted after October 29, 2019, but prior to the effective date of this chapter, that would constitute an amendment of this chapter, shall be operative after the effective date of this chapter unless the statute was passed in accordance with the requirements of subdivision (a).

(c) (1) The purposes of this chapter are described in Article 1 (commencing with Section 7448).

(2) Any statute that amends Section 7451 does not further the purposes of this chapter.

(3) Any statute that prohibits app-based drivers from performing a particular rideshare service or delivery service while allowing other individuals or entities to perform the same rideshare service or delivery service, or otherwise imposes unequal regulatory burdens upon app-based drivers based on their classification status, constitutes an amendment of this chapter and must be enacted in compliance with the procedures governing amendments consistent with the purposes of this chapter as set forth in subdivisions (a) and (b).

(4) Any statute that authorizes any entity or organization to represent the interests of app-based drivers in connection with drivers' contractual relationships with network companies, or drivers' compensation, benefits, or working conditions, constitutes an amendment of this chapter and must

be enacted in compliance with the procedures governing amendments consistent with the purposes of this chapter as set forth in subdivisions (a) and (b).

(d) Any statute that imposes additional misdemeanor or felony penalties in order to provide greater protection against criminal activity for app-based drivers and individuals using rideshare services or delivery services may be enacted by the Legislature by rollcall vote entered into the journal, a majority of the membership of each house concurring, without complying with subdivisions (a) and (b).

Article 10. Regulations

7466. (a) Emergency regulations may be adopted by Covered California in order to implement and administer subdivisions (c) and (g) of Section 7454.

(b) Any emergency regulation adopted pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by Covered California may remain in effect for two years from the date of adoption.

Article 11. Severability

7467. (a) Subject to subdivision (b), the provisions of this chapter are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this chapter is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this chapter. The people of the State of California hereby declare that they would have adopted this chapter and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any other portion of this chapter or application thereof would be subsequently declared invalid.

(b) Notwithstanding subdivision (a), if any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of Section 7451 of Article 2 (commencing with Section 7451), as added by the voters, is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall apply to the entirety of the remaining provisions of this chapter, and no provision of this chapter shall be deemed valid or given force of law.

SEC. 2. Section 17037 of the Revenue and Taxation Code is amended to read:

17037. Provisions in other codes or general law statutes which are related to this part include all of the following:

(a) Chapter 20.6 (commencing with Section 9891) of Division 3 of the Business and Professions Code, relating to tax preparers.

(b) Part 10.2 (commencing with Section 18401), relating to the administration of franchise and income tax laws.

(c) Part 10.5 (commencing with Section 20501), relating to the Property Tax Assistance and Postponement Law.

(d) Part 10.7 (commencing with Section 21001), relating to the Taxpayers' Bill of Rights.

(e) Part 11 (commencing with Section 23001), relating to the Corporation Tax Law.

(f) Sections 15700 to 15702.1, inclusive, of the Government Code, relating to the Franchise Tax Board.

(g) Article 8 (commencing with Section 7464.5) of Chapter 10.5 of Division 3 of the Business and Professions Code.

SEC. 3. Conflicting Measures.

(a) In the event that this initiative measure and another ballot measure or measures dealing, either directly or indirectly, with the worker classification, compensation, or benefits of app-based drivers shall appear on the same statewide election ballot, the other ballot measure or measures shall be deemed to be in conflict with this measure. In the event that this initiative measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other ballot measure or measures shall be null and void.

(b) If this initiative measure is approved by the voters but superseded in whole or in part by any other conflicting ballot measure approved by the voters at the same election, and such conflicting measure is later held invalid, this measure shall be self-executing and given full force and effect.

SEC. 4. Legal Defense.

The purpose of this section is to ensure that the people's precious right of initiative cannot be improperly annulled by state politicians who refuse to defend the will of the voters. Therefore, if this act is approved by the voters of the State of California and thereafter subjected to a legal challenge which attempts to limit the scope or application of this act in any way, or alleges this act violates any local, state, or federal law in whole or in part, and both the Governor and Attorney General refuse to defend this act, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 (commencing with Section 12500) of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney

General shall appoint independent counsel to faithfully and vigorously defend this act on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this act. The written affirmation shall be made publicly available upon request.

(c) In order to support the defense of this act in instances where the Governor and Attorney General fail to do so despite the will of the voters, a continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this act on behalf of the State of California.

SEC. 5. Liberal Construction.

This act shall be liberally construed in order to effectuate its purposes.

PROPOSITION 23

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Health and Safety Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Name.

This act shall be known as the "Protect the Lives of Dialysis Patients Act."

SEC. 2. Findings and Purposes.

This act, adopted by the people of the State of California, makes the following findings and has the following purposes:

(a) The people make the following findings:

(1) Kidney dialysis is a life-saving process in which blood is removed from a person's body, cleaned of toxins, and then returned to the patient. It must be done at least three times a week for several hours a session, and the patient must continue treatment for the rest of their life or until they can obtain a kidney transplant.

(2) In California, at least 70,000 people undergo dialysis treatment.

(3) Just two multinational, for-profit corporations operate or manage nearly three-quarters of dialysis clinics in California and treat more than 75 percent of dialysis patients in the state. These two multinational

corporations annually earn billions of dollars from their dialysis operations, including more than \$350 million a year in California alone.

(4) The dialysis procedure and side effects from the treatments present several dangers to patients, and many dialysis clinics in California have been cited for failure to maintain proper standards of care. Failure to maintain proper standards can lead to patient harm, hospitalizations, and even death.

(5) Dialysis clinics are currently not required to maintain a doctor on site to oversee quality, ensure the patient plan of care is appropriately followed, and monitor safety protocols. Patients should have access to a physician on site whenever dialysis treatment is being provided.

(6) Dialysis treatments involve direct access to the bloodstream, which puts patients at heightened risk of getting dangerous infections. Proper reporting and transparency of infection rates encourages clinics to improve quality and helps patients make the best choice for their care.

(7) When health care facilities like hospitals and nursing homes close, California regulators are able to take steps to protect patients from harm. Likewise, strong protections should be provided to vulnerable patients when dialysis clinics close.

(8) Dialysis corporations have lobbied against efforts to enact protections for kidney dialysis patients in California, spending over \$100 million in 2018 and 2019 to influence California voters and the Legislature.

(b) Purposes:

(1) It is the purpose of this act to ensure that outpatient kidney dialysis clinics provide quality and affordable patient care to people suffering from end-stage renal disease.

(2) This act is intended to be budget neutral for the state to implement and administer.

SEC. 3. Section 1226.7 is added to the Health and Safety Code, to read:

1226.7. (a) Chronic dialysis clinics shall provide the same quality of care to their patients without discrimination on the basis of who is responsible for paying for a patient's treatment. Further, chronic dialysis clinics shall not refuse to offer or to provide care on the basis of who is responsible for paying for a patient's treatment. Such prohibited discrimination includes, but is not limited to, discrimination on the basis that a payer is an individual patient, private entity, insurer, Medi-Cal, Medicaid, or Medicare. This section shall also apply to a chronic dialysis clinic's governing entity, which shall ensure that no discrimination prohibited by this section occurs at or among clinics owned or operated by the governing entity.

(b) Definitions:

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(1) “Chronic dialysis clinic” has the same meaning as in Section 1204.

(2) “Governing entity” means a person, firm, association, partnership, corporation, or other entity that owns or operates a chronic dialysis clinic for which a license has been issued, without respect to whether the person or entity itself directly holds that license.

SEC. 4. Section 1226.8 is added to the Health and Safety Code, to read:

1226.8. (a) Every chronic dialysis clinic must maintain, at the chronic dialysis clinic’s expense, at least one licensed physician present onsite during all times that in-center dialysis patients are being treated. This physician shall have authority and responsibility over patient safety and to direct the provision and quality of medical care.

(1) A chronic dialysis clinic may apply to the department for an exception to the requirement in subdivision (a) on the grounds that a bona fide shortage of qualified physicians prevents it from satisfying the requirement. Upon such a showing, the department may grant an exception that permits the clinic to satisfy the requirement in subdivision (a) by having at minimum one of the following onsite during all times that in-center dialysis patients are being treated: a licensed physician, a nurse practitioner, or a physician assistant.

(2) The duration of an exception granted by the department pursuant to paragraph (1) shall be one calendar year from the date the clinic is notified of the department’s determination.

(b) For each chronic dialysis clinic, the clinic or its governing entity shall quarterly report to the department, on a form and schedule prescribed by the department, dialysis clinic health care associated infection (“dialysis clinic HAI”) data, including the incidence and type of dialysis clinic HAIs at each chronic dialysis clinic in California and such other information as the department shall deem appropriate to provide transparency on dialysis clinic HAI rates and promote patient safety. The chief executive officer or other principal officer of the clinic or governing entity shall certify under penalty of perjury that the officer is satisfied, after review, that the dialysis clinic HAI report submitted to the department is accurate and complete. The department shall post on its internet website the dialysis clinic HAI data from this report, at the same level of detail as provided in the report. The posted information shall include information identifying the governing entity of each chronic dialysis clinic.

(1) In addition to reporting to the department pursuant to the requirements of this subdivision, chronic dialysis clinics shall report dialysis clinic HAI data to the National Healthcare Safety Network in

accordance with National Healthcare Safety Network requirements and procedures.

(2) In the event the department determines that a chronic dialysis clinic or governing entity failed to maintain the information or timely submit a report required under this subdivision, or that the report submitted was inaccurate or incomplete, the department shall assess a penalty against the chronic dialysis clinic or governing entity not to exceed one hundred thousand dollars (\$100,000). The department shall determine the amount of the penalty based on the severity of the violation, the materiality of the inaccuracy or omitted information, and the strength of the explanation, if any, for the violation. Penalties collected pursuant to this paragraph shall be used by the department to implement and enforce laws governing chronic dialysis clinics.

(c) Definitions. For purposes of this section:

(1) “Chronic dialysis clinic” has the same meaning as in Section 1204.

(2) “Dialysis clinic HAI” means a bloodstream infection, local access site infection, or vascular access infection related to a dialysis event as defined by the National Healthcare Safety Network of the federal Centers for Disease Control and Prevention, or any appropriate additional or alternative definition that the department defines by regulation.

(3) “Governing entity” has the same meaning as in Section 1226.7.

(4) “Licensed physician” means a nephrologist or other physician licensed by the state pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(5) “National Healthcare Safety Network” means the secure, internet-based system developed and managed by the federal Centers for Disease Control and Prevention that collects, analyzes, and reports risk-adjusted dialysis clinic HAI data related to the incidence of HAIs and the process measures implemented to prevent these infections, or any successor data collection system that serves substantially the same purpose.

(6) “Nurse practitioner” means a registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code and certified as a nurse practitioner by the Board of Registered Nursing.

(7) “Physician assistant” means a physician assistant licensed pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code.

SEC. 5. Section 1226.9 is added to the Health and Safety Code, to read:

1226.9. (a) Prior to closing a chronic dialysis clinic, or substantially reducing or eliminating the level of services provided by a chronic dialysis clinic, the

clinic or its governing entity must provide written notice to, and obtain the written consent of, the department.

(b) The department shall have discretion to consent to, give conditional consent to, or not consent to, any proposed closure or substantial reduction or elimination of services. In making its determination, the department may take into account information submitted by the clinic, its governing entity, and any other interested party, and shall consider any factors that the department considers relevant, including, but not limited to, the following:

(1) The effect on the availability and accessibility of health care services to the affected community, including, but not limited to, the clinic's detailed plan for ensuring patients will have uninterrupted access to care.

(2) Evidence of good faith efforts by the clinic or governing entity to sell, lease, or otherwise transfer ownership or operations of the clinic to another entity that would provide chronic dialysis care.

(3) The financial resources of the clinic and its governing entity.

(c) Definitions:

(1) "Chronic dialysis clinic" has the same meaning as in Section 1204.

(2) "Governing entity" has the same meaning as in Section 1226.7.

SEC. 6. Section 1226.10 is added to the Health and Safety Code, to read:

1226.10. (a) If a chronic dialysis clinic or governing entity disputes a determination by the department pursuant to Section 1226.8 or 1226.9, the chronic dialysis clinic or governing entity may, within 10 working days, request a hearing pursuant to Section 131071. A chronic dialysis clinic or governing entity shall pay all administrative penalties when all appeals have been exhausted if the department's position has been upheld.

(b) Definitions:

(1) "Chronic dialysis clinic" has the same meaning as in Section 1204.

(2) "Governing entity" has the same meaning as in Section 1226.7.

SEC. 7. Section 1266.3 is added to the Health and Safety Code, to read:

1266.3. It is the intent of the people that California taxpayers not be financially responsible for implementation and enforcement of the Protect the Lives of Dialysis Patients Act. In order to effectuate that intent, when calculating, assessing, and collecting fees imposed on chronic dialysis clinics pursuant to Section 1266, the department shall take into account all costs associated with implementing and enforcing Sections 1226.7 to 1226.10, inclusive.

SEC. 8. Nothing in this act is intended to affect health facilities licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code.

SEC. 9. (a) The State Department of Public Health is authorized to and, within one year following the act's effective date, shall adopt regulations implementing Sections 1226.8 and 1226.9 of the Health and Safety Code to further the purposes of this act.

(b) If the department is unable to adopt the required final regulations within one year following the act's effective date, the adoption of emergency implementing regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare, in which case the department shall adopt initial emergency implementing regulations no later than one year following the act's effective date, or as soon thereafter as is practicable. If such emergency regulations are adopted, the department shall adopt the required final regulations by the time the emergency regulations expire.

SEC. 10. Pursuant to subdivision (c) of Section 10 of Article II of the California Constitution, this act may be amended either by a subsequent measure submitted to a vote of the people at a statewide election; or by a statute validly passed by the Legislature and signed by the Governor, but only to further the purposes of the act.

SEC. 11. (a) In the event that this initiative measure and another initiative measure or measures relating to dialysis (including, but not limited to, the regulation of chronic dialysis clinics or the treatment and care of dialysis patients) shall appear on the same statewide election ballot, the other initiative measure or measures shall be deemed to be in conflict with this measure. In the event that this initiative measure receives the highest number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other initiative measure or measures shall be null and void.

(b) If this initiative is approved by the voters but superseded in whole or in part by any other conflicting ballot measure approved by the voters at the same election, and such conflicting measure is later held invalid, this measure shall be self-executing and given full force and effect.

SEC. 12. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect the remaining portions of this act or any application that can be given effect without the invalid provision or application. The people of the State of California hereby declare that they would have adopted this act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and

application not declared invalid or unconstitutional without regard to whether any portion of this act or application thereof would be subsequently declared invalid.

PROPOSITION 24

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends and adds sections to the Civil Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The California Privacy Rights Act of 2020

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SEC. 1. Title.

This measure shall be known, and may be cited, as the "California Privacy Rights Act of 2020."

SEC. 2. Findings and Declarations.

The people of the State of California hereby find and declare all of the following:

A. In 1972, California voters amended the California Constitution to include the right of privacy among the "inalienable" rights of all people. Voters acted in response to the accelerating encroachment on personal freedom and security caused by increased data collection and usage in contemporary society. The amendment established a legal and enforceable constitutional right of privacy for every Californian. Fundamental to this right of privacy is the ability of individuals to control the use, including the sale, of their personal information.

B. Since California voters approved the constitutional right of privacy, the California Legislature has adopted specific mechanisms to safeguard Californians' privacy, including the Online Privacy Protection Act, the Privacy Rights for California Minors in the Digital World Act, and Shine the Light, but consumers had no right to learn what personal information a business had collected about them and how they used it or to direct businesses not to sell the consumer's personal information.

C. That changed in 2018, when more than 629,000 California voters signed petitions to qualify the California Consumer Privacy Act of 2018 for the ballot. In response to the measure's qualification, the Legislature enacted the California Consumer Privacy Act of 2018 (CCPA) into law. The CCPA gives California consumers the right to learn what information a business has collected about them, to delete their personal information, to stop businesses

from selling their personal information, including using it to target them with ads that follow them as they browse the internet from one website to another, and to hold businesses accountable if they do not take reasonable steps to safeguard their personal information.

D. Even before the CCPA had gone into effect, the Legislature considered many bills in 2019 to amend the law, some of which would have significantly weakened it. Unless California voters take action, the hard-fought rights consumers have won could be undermined by future legislation.

E. Rather than diluting privacy rights, California should strengthen them over time. Many businesses collect and use consumers' personal information, sometimes without consumers' knowledge regarding the business' use and retention of their personal information. In practice, consumers are often entering into a form of contractual arrangement in which, while they do not pay money for a good or service, they exchange access to that good or service in return for access to their attention or access to their personal information. Because the value of the personal information they are exchanging for the good or service is often opaque, depending on the practices of the business, consumers often have no good way to value the transaction. In addition, the terms of agreement or policies in which the arrangements are spelled out, are often complex and unclear, and as a result, most consumers never have the time to read or understand them.

F. This asymmetry of information makes it difficult for consumers to understand what they are exchanging and therefore to negotiate effectively with businesses. Unlike in other areas of the economy where consumers can comparison shop, or can understand at a glance if a good or service is expensive or affordable, it is hard for the consumer to know how much the consumer's information is worth to any given business when data use practices vary so widely between businesses.

G. The state therefore has an interest in mandating laws that will allow consumers to understand more fully how their information is being used and for what purposes. In the same way that ingredient labels on foods help consumers shop more effectively, disclosure around data management practices will help consumers become more informed counterparties in the data economy and promote competition. Additionally, if a consumer can tell a business not to sell the consumer's data, then that consumer will not have to scour a privacy policy to see whether the business is, in fact, selling that data, and the resulting savings in time is worth, in the aggregate, a tremendous amount of money.

H. Consumers need stronger laws to place them on a more equal footing when negotiating with businesses in order to protect their rights. Consumers should be entitled to a clear explanation of the uses of their

personal information, including how it is used for advertising, and to control, correct, or delete it, including by allowing consumers to limit businesses' use of their sensitive personal information to help guard against identity theft, to opt-out of the sale and sharing of their personal information, and to request that businesses correct inaccurate information about them.

I. California is the world leader in many new technologies that have reshaped our society. The world today is unimaginable without the internet, one of the most momentous inventions in human history, and the new services and businesses that arose on top of it, many of which were invented here in California. One of the most successful business models for the internet has been services that rely on advertising to make money as opposed to charging consumers a fee. Advertising-supported services have existed for generations and can be a great model for consumers and businesses alike. However, some advertising businesses today use technologies and tools that are opaque to consumers to collect and trade vast amounts of personal information, to track them across the internet, and to create detailed profiles of their individual interests. Some companies that do not charge consumers a fee, subsidize these services by monetizing consumers' personal information. Consumers should have the information and tools necessary to limit the use of their information to noninvasive proprivacy advertising, where their personal information is not sold to or shared with hundreds of businesses they've never heard of, if they choose to do so. Absent these tools, it will be virtually impossible for consumers to fully understand these contracts they are essentially entering into when they interact with various businesses.

J. Children are particularly vulnerable from a negotiating perspective with respect to their privacy rights. Parents should be able to control what information is collected and sold or shared about their young children and should be given the right to demand that companies erase information collected about their children.

K. Business should also be held directly accountable to consumers for data security breaches and notify consumers when their most sensitive information has been compromised.

L. An independent watchdog whose mission is to protect consumer privacy should ensure that businesses and consumers are well-informed about their rights and obligations and should vigorously enforce the law against businesses that violate consumers' privacy rights.

SEC. 3. Purpose and Intent.

In enacting this act, it is the purpose and intent of the people of the State of California to further protect consumers' rights, including the constitutional right of

privacy. The implementation of this act shall be guided by the following principles:

A. Consumer Rights

1. Consumers should know who is collecting their personal information and that of their children, how it is being used, and to whom it is disclosed so that they have the information necessary to exercise meaningful control over businesses' use of their personal information and that of their children.

2. Consumers should be able to control the use of their personal information, including limiting the use of their sensitive personal information, the unauthorized use or disclosure of which creates a heightened risk of harm to the consumer, and they should have meaningful options over how it is collected, used, and disclosed.

3. Consumers should have access to their personal information and should be able to correct it, delete it, and take it with them from one business to another.

4. Consumers or their authorized agents should be able to exercise these options through easily accessible self-serve tools.

5. Consumers should be able to exercise these rights without being penalized for doing so.

6. Consumers should be able to hold businesses accountable for failing to take reasonable precautions to protect their most sensitive personal information from hackers and security breaches.

7. Consumers should benefit from businesses' use of their personal information.

8. The privacy interests of employees and independent contractors should also be protected, taking into account the differences in the relationship between employees or independent contractors and businesses as compared to the relationship between consumers and businesses. In addition, this law is not intended to interfere with the right to organize and collective bargaining under the National Labor Relations Act. It is the purpose and intent of the Act to extend the exemptions in this title for employee and business to business communications until January 1, 2023.

B. Responsibilities of Businesses

1. Businesses should specifically and clearly inform consumers about how they collect and use personal information and how they can exercise their rights and choice.

2. Businesses should only collect consumers' personal information for specific, explicit, and legitimate disclosed purposes and should not further collect, use, or disclose consumers' personal information for reasons incompatible with those purposes.

3. Businesses should collect consumers' personal information only to the extent that it is relevant and

limited to what is necessary in relation to the purposes for which it is being collected, used, and shared.

4. Businesses should provide consumers or their authorized agents with easily accessible means to allow consumers and their children to obtain their personal information, to delete it or correct it, to opt out of its sale and sharing across business platforms, services, businesses, and devices, and to limit the use of their sensitive personal information.

5. Businesses should not penalize consumers for exercising these rights.

6. Businesses should take reasonable precautions to protect consumers' personal information from a security breach.

7. Businesses should be held accountable when they violate consumers' privacy rights, and the penalties should be higher when the violation affects children.

C. Implementation of the Law

1. The rights of consumers and the responsibilities of businesses should be implemented with the goal of strengthening consumer privacy while giving attention to the impact on business and innovation. Consumer privacy and the development of beneficial new products and services are not necessarily incompatible goals. Strong consumer privacy rights create incentives to innovate and develop new products that are privacy protective.

2. Businesses and consumers should be provided with clear guidance about their responsibilities and rights.

3. The law should place the consumer in a position to knowingly and freely negotiate with a business over the business' use of the consumer's personal information.

4. The law should adjust to technological changes, help consumers exercise their rights, and assist businesses with compliance with the continuing goal of strengthening consumer privacy.

5. The law should enable proconsumer new products and services and promote efficiency of implementation for business provided that the amendments do not compromise or weaken consumer privacy.

6. The law should be amended, if necessary, to improve its operation, provided that the amendments do not compromise or weaken consumer privacy, while giving attention to the impact on business and innovation.

7. Businesses should be held accountable for violating the law through vigorous administrative and civil enforcement.

8. To the extent it advances consumer privacy and business compliance, the law should be compatible with privacy laws in other jurisdictions.

SEC. 4. Section 1798.100 of the Civil Code is amended to read:

1798.100. General Duties of Businesses that Collect Personal Information

~~1798.100. (a) A consumer shall have the right to request that a business that collects a consumer's personal information disclose to that consumer the categories and specific pieces of personal information the business has collected.~~

~~(b) (a) A business that controls the collection of collects a consumer's personal information shall, at or before the point of collection, inform consumers as to the of the following:~~

~~(1) The categories of personal information to be collected and the purposes for which the categories of personal information are collected or used shall be used and whether that information is sold or shared. A business shall not collect additional categories of personal information or use personal information collected for additional purposes that are incompatible with the disclosed purpose for which the personal information was collected without providing the consumer with notice consistent with this section.~~

~~(2) If the business collects sensitive personal information, the categories of sensitive personal information to be collected and the purposes for which the categories of sensitive personal information are collected or used, and whether that information is sold or shared. A business shall not collect additional categories of sensitive personal information or use sensitive personal information collected for additional purposes that are incompatible with the disclosed purpose for which the sensitive personal information was collected without providing the consumer with notice consistent with this section.~~

~~(3) The length of time the business intends to retain each category of personal information, including sensitive personal information, or if that is not possible, the criteria used to determine that period provided that a business shall not retain a consumer's personal information or sensitive personal information for each disclosed purpose for which the personal information was collected for longer than is reasonably necessary for that disclosed purpose.~~

~~(b) A business that, acting as a third party, controls the collection of personal information about a consumer may satisfy its obligation under subdivision (a) by providing the required information prominently and conspicuously on the homepage of its internet website. In addition, if a business acting as a third party controls the collection of personal information about a consumer on its premises, including in a vehicle, then the business shall, at or before the point of collection, inform consumers as to the categories of personal information to be collected and the purposes for which the categories of personal information are used, and whether that personal information is sold, in a clear and conspicuous manner at the location.~~

(c) A business' collection, use, retention, and sharing of a consumer's personal information shall be reasonably necessary and proportionate to achieve the purposes for which the personal information was collected or processed, or for another disclosed purpose that is compatible with the context in which the personal information was collected, and not further processed in a manner that is incompatible with those purposes.

(d) A business that collects a consumer's personal information and that sells that personal information to, or shares it with, a third party or that discloses it to a service provider or contractor for a business purpose shall enter into an agreement with the third party, service provider, or contractor, that:

(1) Specifies that the personal information is sold or disclosed by the business only for limited and specified purposes.

(2) Obligates the third party, service provider, or contractor to comply with applicable obligations under this title and obligate those persons to provide the same level of privacy protection as is required by this title.

(3) Grants the business rights to take reasonable and appropriate steps to help ensure that the third party, service provider, or contractor uses the personal information transferred in a manner consistent with the business' obligations under this title.

(4) Requires the third party, service provider, or contractor to notify the business if it makes a determination that it can no longer meet its obligations under this title.

(5) Grants the business the right, upon notice, including under paragraph (4), to take reasonable and appropriate steps to stop and remediate unauthorized use of personal information.

(e) A business that collects a consumer's personal information shall implement reasonable security procedures and practices appropriate to the nature of the personal information to protect the personal information from unauthorized or illegal access, destruction, use, modification, or disclosure in accordance with Section 1798.81.5.

(f) Nothing in this section shall require a business to disclose trade secrets, as specified in regulations adopted pursuant to paragraph (3) of subdivision (a) of Section 1798.185.

~~(c) A business shall provide the information specified in subdivision (a) to a consumer only upon receipt of a verifiable consumer request.~~

~~(d) A business that receives a verifiable consumer request from a consumer to access personal information shall promptly take steps to disclose and deliver, free of charge to the consumer, the personal information required by this section. The information may be delivered by mail or electronically, and if~~

~~provided electronically, the information shall be in a portable and, to the extent technically feasible, readily useable format that allows the consumer to transmit this information to another entity without hindrance. A business may provide personal information to a consumer at any time, but shall not be required to provide personal information to a consumer more than twice in a 12-month period.~~

~~(e) This section shall not require a business to retain any personal information collected for a single, one-time transaction, if such information is not sold or retained by the business or to reidentify or otherwise link information that is not maintained in a manner that would be considered personal information.~~

SEC. 5. Section 1798.105 of the Civil Code is amended to read:

1798.105. Consumers' Right to Delete Personal Information

~~1798.105.~~ (a) A consumer shall have the right to request that a business delete any personal information about the consumer which the business has collected from the consumer.

(b) A business that collects personal information about consumers shall disclose, pursuant to Section 1798.130, the consumer's rights to request the deletion of the consumer's personal information.

(c) (1) A business that receives a verifiable consumer request from a consumer to delete the consumer's personal information pursuant to subdivision (a) of this section shall delete the consumer's personal information from its records, ~~and direct~~ *notify* any service providers or contractors to delete the consumer's personal information from their records, ~~and notify all third parties to whom the business has sold or shared the personal information to delete the consumer's personal information unless this proves impossible or involves disproportionate effort.~~

(2) *The business may maintain a confidential record of deletion requests solely for the purpose of preventing the personal information of a consumer who has submitted a deletion request from being sold, for compliance with laws or for other purposes, solely to the extent permissible under this title.*

(3) *A service provider or contractor shall cooperate with the business in responding to a verifiable consumer request, and at the direction of the business, shall delete, or enable the business to delete and shall notify any of its own service providers or contractors to delete personal information about the consumer collected, used, processed, or retained by the service provider or the contractor. The service provider or contractor shall notify any service providers, contractors, or third parties who may have accessed personal information from or through the service provider or contractor, unless the information was accessed at the direction of the business, to delete the consumer's personal information unless*

this proves impossible or involves disproportionate effort. A service provider or contractor shall not be required to comply with a deletion request submitted by the consumer directly to the service provider or contractor to the extent that the service provider or contractor has collected, used, processed, or retained the consumer's personal information in its role as a service provider or contractor to the business.

(d) A business, or a service provider or contractor acting pursuant to its contract with the business, another service provider, or another contractor, shall not be required to comply with a consumer's request to delete the consumer's personal information if it is *reasonably* necessary for the business, or service provider, or contractor to maintain the consumer's personal information in order to:

(1) Complete the transaction for which the personal information was collected, fulfill the terms of a written warranty or product recall conducted in accordance with federal law, provide a good or service requested by the consumer, or reasonably anticipated *by the consumer* within the context of a business' ongoing business relationship with the consumer, or otherwise perform a contract between the business and the consumer.

~~(2) Detect security incidents, protect against malicious, deceptive, fraudulent, or illegal activity, or prosecute those responsible for that activity. Help to ensure security and integrity to the extent the use of the consumer's personal information is reasonably necessary and proportionate for those purposes.~~

(3) Debug to identify and repair errors that impair existing intended functionality.

(4) Exercise free speech, ensure the right of another consumer to exercise that consumer's right of free speech, or exercise another right provided for by law.

(5) Comply with the California Electronic Communications Privacy Act pursuant to Chapter 3.6 (commencing with Section 1546) of Title 12 of Part 2 of the Penal Code.

(6) Engage in public or peer-reviewed scientific, historical, or statistical research in the public interest that *conforms or* adheres to all other applicable ethics and privacy laws, when the business' deletion of the information is likely to render impossible or seriously impair the ~~achievement of~~ *ability to complete* such research, if the consumer has provided informed consent.

(7) To enable solely internal uses that are reasonably aligned with the expectations of the consumer based on the consumer's relationship with the business *and compatible with the context in which the consumer provided the information.*

(8) Comply with a legal obligation.

~~(9) Otherwise use the consumer's personal information, internally, in a lawful manner that is~~

~~compatible with the context in which the consumer provided the information.~~

SEC. 6. Section 1798.106 is added to the Civil Code, to read:

1798.106. Consumers' Right to Correct Inaccurate Personal Information

(a) A consumer shall have the right to request a business that maintains inaccurate personal information about the consumer to correct that inaccurate personal information, taking into account the nature of the personal information and the purposes of the processing of the personal information.

(b) A business that collects personal information about consumers shall disclose, pursuant to Section 1798.130, the consumer's right to request correction of inaccurate personal information.

(c) A business that receives a verifiable consumer request to correct inaccurate personal information shall use commercially reasonable efforts to correct the inaccurate personal information as directed by the consumer, pursuant to Section 1798.130 and regulations adopted pursuant to paragraph (8) of subdivision (a) of Section 1798.185.

SEC. 7. Section 1798.110 of the Civil Code is amended to read:

1798.110. Consumers' Right to Know What Personal Information is Being Collected. Right to Access Personal Information

~~1798.110.~~ (a) A consumer shall have the right to request that a business that collects personal information about the consumer disclose to the consumer the following:

(1) The categories of personal information it has collected about that consumer.

(2) The categories of sources from which the personal information is collected.

(3) The business or commercial purpose for collecting, ~~or selling, or sharing~~ personal information.

(4) The categories of third parties ~~with~~ to whom the business ~~shares~~ discloses personal information.

(5) The specific pieces of personal information it has collected about that consumer.

(b) A business that collects personal information about a consumer shall disclose to the consumer, pursuant to *subparagraph (B) of paragraph (3) of subdivision (a) of Section 1798.130*, the information specified in subdivision (a) upon receipt of a verifiable consumer request from the consumer, *provided that a business shall be deemed to be in compliance with paragraphs (1) to (4), inclusive, of subdivision (a) to the extent that the categories of information and the business or commercial purpose for collecting, selling, or sharing personal information it would be required to disclose to the consumer pursuant to paragraphs (1)*

to (4), inclusive, of subdivision (a) is the same as the information it has disclosed pursuant to paragraphs (1) to (4), inclusive, of subdivision (c).

(c) A business that collects personal information about consumers shall disclose, pursuant to subparagraph (B) of paragraph (5) of subdivision (a) of Section 1798.130:

(1) The categories of personal information it has collected about consumers.

(2) The categories of sources from which the personal information is collected.

(3) The business or commercial purpose for collecting, ~~or selling, or sharing~~ personal information.

(4) The categories of third parties ~~with~~ to whom the business ~~shares~~ discloses personal information.

(5) That a consumer has the right to request the specific pieces of personal information the business has collected about that consumer.

~~(d) This section does not require a business to do the following:~~

~~(1) Retain any personal information about a consumer collected for a single one-time transaction if, in the ordinary course of business, that information about the consumer is not retained.~~

~~(2) Reidentify or otherwise link any data that, in the ordinary course of business, is not maintained in a manner that would be considered personal information.~~

SEC. 8. Section 1798.115 of the Civil Code is amended to read:

1798.115. Consumers' Right to Know What Personal Information is Sold or Shared and to Whom

~~1798.115.~~ (a) A consumer shall have the right to request that a business that sells *or shares* the consumer's personal information, or that discloses it for a business purpose, disclose to that consumer:

(1) The categories of personal information that the business collected about the consumer.

(2) The categories of personal information that the business sold *or shared* about the consumer and the categories of third parties to whom the personal information was sold *or shared*, by category or categories of personal information for each category of third parties to whom the personal information was sold *or shared*.

(3) The categories of personal information that the business disclosed about the consumer for a business purpose *and the categories of persons to whom it was disclosed for a business purpose.*

(b) A business that sells *or shares* personal information about a consumer, or that discloses a consumer's personal information for a business purpose, shall disclose, pursuant to paragraph (4) of subdivision (a) of Section 1798.130, the information

specified in subdivision (a) to the consumer upon receipt of a verifiable consumer request from the consumer.

(c) A business that sells *or shares* consumers' personal information, or that discloses consumers' personal information for a business purpose, shall disclose, pursuant to subparagraph (C) of paragraph (5) of subdivision (a) of Section 1798.130:

(1) The category or categories of consumers' personal information it has sold *or shared*, or if the business has not sold *or shared* consumers' personal information, it shall disclose that fact.

(2) The category or categories of consumers' personal information it has disclosed for a business purpose, or if the business has not disclosed the consumers' personal information for a business purpose, it shall disclose that fact.

(d) A third party shall not sell *or share* personal information about a consumer that has been sold to, *or shared with*, the third party by a business unless the consumer has received explicit notice and is provided an opportunity to exercise the right to opt-out pursuant to Section 1798.120.

SEC. 9. Section 1798.120 of the Civil Code is amended to read:

1798.120. Consumers' Right to Opt Out of Sale or Sharing of Personal Information

~~1798.120.~~ (a) A consumer shall have the right, at any time, to direct a business that sells *or shares* personal information about the consumer to third parties not to sell *or share* the consumer's personal information. This right may be referred to as the right to opt-out *of sale or sharing*.

(b) A business that sells consumers' personal information to, *or shares it with*, third parties shall provide notice to consumers, pursuant to subdivision (a) of Section 1798.135, that this information may be sold *or shared* and that consumers have the "right to opt-out" of the sale *or sharing* of their personal information.

(c) Notwithstanding subdivision (a), a business shall not sell *or share* the personal information of consumers if the business has actual knowledge that the consumer is less than 16 years of age, unless the consumer, in the case of consumers at least 13 years of age and less than 16 years of age, or the consumer's parent or guardian, in the case of consumers who are less than 13 years of age, has affirmatively authorized the sale *or sharing* of the consumer's personal information. A business that willfully disregards the consumer's age shall be deemed to have had actual knowledge of the consumer's age. ~~This right may be referred to as the "right to opt-in."~~

(d) A business that has received direction from a consumer not to sell *or share* the consumer's personal information or, in the case of a minor consumer's

personal information has not received consent to sell *or share* the minor consumer's personal information, shall be prohibited, pursuant to paragraph (4) of subdivision ~~(a)~~ (c) of Section 1798.135, from selling *or sharing* the consumer's personal information after its receipt of the consumer's direction, unless the consumer subsequently provides ~~express authorization consent~~, for the sale *or sharing* of the consumer's personal information.

SEC. 10. Section 1798.121 is added to the Civil Code, to read:

1798.121. Consumers' Right to Limit Use and Disclosure of Sensitive Personal Information

~~1798.121.~~ (a) A consumer shall have the right, at any time, to direct a business that collects sensitive personal information about the consumer to limit its use of the consumer's sensitive personal information to that use which is necessary to perform the services *or provide the goods reasonably expected by an average consumer who requests those goods or services*, to perform the services set forth in paragraphs (2), (4), (5), and (8) of subdivision (e) of Section 1798.140, and as authorized by regulations adopted pursuant to subparagraph (C) of paragraph (19) of subdivision (a) of Section 1798.185. A business that uses or discloses a consumer's sensitive personal information for purposes other than those specified in this subdivision shall provide notice to consumers, pursuant to subdivision (a) of Section 1798.135, that this information may be used, or disclosed to a service provider or contractor, for additional, specified purposes and that consumers have the right to limit the use or disclosure of their sensitive personal information.

(b) A business that has received direction from a consumer not to use or disclose the consumer's sensitive personal information, except as authorized by subdivision (a), shall be prohibited, pursuant to paragraph (4) of subdivision (c) of Section 1798.135, from using or disclosing the consumer's sensitive personal information for any other purpose after its receipt of the consumer's direction unless the consumer subsequently provides consent for the use or disclosure of the consumer's sensitive personal information for additional purposes.

(c) A service provider or contractor that assists a business in performing the purposes authorized by subdivision (a) may not use the sensitive personal information after it has received instructions from the business and to the extent it has actual knowledge that the personal information is sensitive personal information for any other purpose. A service provider or contractor is only required to limit its use of sensitive personal information received pursuant to a written contract with the business in response to instructions from the business and only with respect to its relationship with that business.

(d) Sensitive personal information that is collected or processed without the purpose of inferring characteristics about a consumer is not subject to this section, as further defined in regulations adopted pursuant to subparagraph (C) of paragraph (19) of subdivision (a) of Section 1798.185, and shall be treated as personal information for purposes of all other sections of this act, including Section 1798.100.

SEC. 11. Section 1798.125 of the Civil Code is amended to read:

1798.125. Consumers' Right of No Retaliation Following Opt Out or Exercise of Other Rights

~~1798.125.~~ (a) (1) A business shall not discriminate against a consumer because the consumer exercised any of the consumer's rights under this title, including, but not limited to, by:

(A) Denying goods or services to the consumer.

(B) Charging different prices or rates for goods or services, including through the use of discounts or other benefits or imposing penalties.

(C) Providing a different level or quality of goods or services to the consumer.

(D) Suggesting that the consumer will receive a different price or rate for goods or services or a different level or quality of goods or services.

(E) Retaliating against an employee, applicant for employment, or independent contractor, as defined in subparagraph (A) of paragraph (2) of subdivision (m) of Section 1798.145, for exercising their rights under this title.

(2) Nothing in this subdivision prohibits a business, pursuant to subdivision (b), from charging a consumer a different price or rate, or from providing a different level or quality of goods or services to the consumer, if that difference is reasonably related to the value provided to the business by the consumer's data.

(3) This subdivision does not prohibit a business from offering loyalty, rewards, premium features, discounts, or club card programs consistent with this title.

(b) (1) A business may offer financial incentives, including payments to consumers as compensation, for the collection of personal information, the sale or sharing of personal information, or the deletion retention of personal information. A business may also offer a different price, rate, level, or quality of goods or services to the consumer if that price or difference is directly reasonably related to the value provided to the business by the consumer's data.

(2) A business that offers any financial incentives pursuant to this subdivision, shall notify consumers of the financial incentives pursuant to Section 1798.130.

(3) A business may enter a consumer into a financial incentive program only if the consumer gives the

business prior opt-in consent pursuant to Section 1798.130 that clearly describes the material terms of the financial incentive program, and which may be revoked by the consumer at any time. *If a consumer refuses to provide opt-in consent, then the business shall wait for at least 12 months before next requesting that the consumer provide opt-in consent, or as prescribed by regulations adopted pursuant to Section 1798.185.*

(4) A business shall not use financial incentive practices that are unjust, unreasonable, coercive, or usurious in nature.

SEC. 12. Section 1798.130 of the Civil Code is amended to read:

1798.130. Notice, Disclosure, Correction, and Deletion Requirements

~~1798.130~~ (a) In order to comply with Sections 1798.100, 1798.105, *1798.106*, 1798.110, 1798.115, and 1798.125, a business shall, in a form that is reasonably accessible to consumers:

(1) (A) Make available to consumers two or more designated methods for submitting requests for information required to be disclosed pursuant to Sections 1798.110 and 1798.115, *or requests for deletion or correction pursuant to Sections 1798.105 and 1798.106, respectively*, including, at a minimum, a toll-free telephone number. A business that operates exclusively online and has a direct relationship with a consumer from whom it collects personal information shall only be required to provide an email address for submitting requests for information required to be disclosed pursuant to Sections 1798.110 and 1798.115, *or for requests for deletion or correction pursuant to Sections 1798.105 and 1798.106, respectively.*

(B) If the business maintains an internet website, make the internet website available to consumers to submit requests for information required to be disclosed pursuant to Sections 1798.110 and 1798.115, *or requests for deletion or correction pursuant to Sections 1798.105 and 1798.106, respectively.*

(2) (A) Disclose and deliver the required information to a consumer free of charge, *correct inaccurate personal information, or delete a consumer's personal information, based on the consumer's request*, within 45 days of receiving a verifiable consumer request from the consumer. The business shall promptly take steps to determine whether the request is a verifiable consumer request, but this shall not extend the business's duty to disclose and deliver the information, *to correct inaccurate personal information, or to delete personal information* within 45 days of receipt of the consumer's request. The time period to provide the required information, *to correct inaccurate personal information, or to delete personal information* may be extended once by an additional 45 days when

reasonably necessary, provided the consumer is provided notice of the extension within the first 45-day period. The disclosure of the required information shall cover the 12-month period preceding the business's receipt of the verifiable consumer request and shall be made in writing and delivered through the consumer's account with the business, if the consumer maintains an account with the business, or by mail or electronically at the consumer's option if the consumer does not maintain an account with the business, in a readily useable format that allows the consumer to transmit this information from one entity to another entity without hindrance. The business may require authentication of the consumer that is reasonable in light of the nature of the personal information requested, but shall not require the consumer to create an account with the business in order to make a verifiable consumer request *provided that if the consumer, maintains has an account with the business, the business may require the consumer to submit the request through that account. use that account to submit a verifiable consumer request.*

(B) The disclosure of the required information shall cover the 12-month period preceding the business' receipt of the verifiable consumer request provided that, upon the adoption of a regulation pursuant to paragraph (9) of subdivision (a) of Section 1798.185, a consumer may request that the business disclose the required information beyond the 12-month period, and the business shall be required to provide that information unless doing so proves impossible or would involve a disproportionate effort. A consumer's right to request required information beyond the 12-month period, and a business's obligation to provide that information, shall only apply to personal information collected on or after January 1, 2022. Nothing in this subparagraph shall require a business to keep personal information for any length of time.

(3) (A) A business that receives a verifiable consumer request pursuant to Section 1798.110 or 1798.115 shall disclose any personal information it has collected about a consumer, directly or indirectly, including through or by a service provider or contractor, to the consumer. A service provider or contractor shall not be required to comply with a verifiable consumer request received directly from a consumer or a consumer's authorized agent, pursuant to Section 1798.110 or 1798.115, to the extent that the service provider or contractor has collected personal information about the consumer in its role as a service provider or contractor. A service provider or contractor shall provide assistance to a business with which it has a contractual relationship with respect to the business' response to a verifiable consumer request, including, but not limited to, by providing to the business the consumer's personal information in the service provider or contractor's possession, which the service provider or contractor obtained as a result of providing services to the business, and by correcting inaccurate

information or by enabling the business to do the same. A service provider or contractor that collects personal information pursuant to a written contract with a business shall be required to assist the business through appropriate technical and organizational measures in complying with the requirements of subdivisions (d) to (f), inclusive, of Section 1798.100, taking into account the nature of the processing.

(B) For purposes of subdivision (b) of Section 1798.110:

(A) (i) To identify the consumer, associate the information provided by the consumer in the verifiable consumer request to any personal information previously collected by the business about the consumer.

(B) (ii) Identify by category or categories the personal information collected about the consumer in the preceding 12 months for the applicable period of time by reference to the enumerated category or categories in subdivision (c) that most closely describes the personal information collected; the categories of sources from which the consumer's personal information was collected; the business or commercial purpose for collecting, selling, or sharing the consumer's personal information; and the categories of third parties to whom the business discloses the consumer's personal information.

(iii) Provide the specific pieces of personal information obtained from the consumer in a format that is easily understandable to the average consumer, and to the extent technically feasible, in a structured, commonly used, machine-readable format that may also be transmitted to another entity at the consumer's request without hindrance. "Specific pieces of information" do not include data generated to help ensure security and integrity or as prescribed by regulation. Personal information is not considered to have been disclosed by a business when a consumer instructs a business to transfer the consumer's personal information from one business to another in the context of switching services.

(4) For purposes of subdivision (b) of Section 1798.115:

(A) Identify the consumer and associate the information provided by the consumer in the verifiable consumer request to any personal information previously collected by the business about the consumer.

(B) Identify by category or categories the personal information of the consumer that the business sold or shared in the preceding 12 months during the applicable period of time by reference to the enumerated category in subdivision (c) that most closely describes the personal information, and provide the categories of third parties to whom the consumer's personal information was sold or shared in

the preceding 12 months *during the applicable period of time* by reference to the enumerated category or categories in subdivision (c) that most closely describes the personal information sold *or shared*. The business shall disclose the information in a list that is separate from a list generated for the purposes of subparagraph (C).

(C) Identify by category or categories the personal information of the consumer that the business disclosed for a business purpose ~~in the preceding 12 months~~ *during the applicable period of time* by reference to the enumerated category or categories in subdivision (c) that most closely describes the personal information, and provide the categories of ~~third parties~~ *persons* to whom the consumer's personal information was disclosed for a business purpose ~~in the preceding 12 months~~ *during the applicable period of time* by reference to the enumerated category or categories in subdivision (c) that most closely describes the personal information disclosed. The business shall disclose the information in a list that is separate from a list generated for the purposes of subparagraph (B).

(5) Disclose the following information in its online privacy policy or policies if the business has an online privacy policy or policies and in any California-specific description of consumers' privacy rights, or if the business does not maintain those policies, on its internet website, and update that information at least once every 12 months:

(A) A description of a consumer's rights pursuant to Sections 1798.100, 1798.105, 1798.106, 1798.110, 1798.115, and 1798.125 and ~~one~~ *two* or more designated methods for submitting requests, *except as provided in subparagraph (A) of paragraph (1) of subdivision (a).*

(B) For purposes of subdivision (c) of Section 1798.110,:

(i) ~~a~~ *A* list of the categories of personal information it has collected about consumers in the preceding 12 months by reference to the enumerated category or categories in subdivision (c) that most closely describe the personal information collected.

(ii) *The categories of sources from which consumers' personal information is collected.*

(iii) *The business or commercial purpose for collecting, selling, or sharing consumers' personal information.*

(iv) *The categories of third parties to whom the business discloses consumers' personal information.*

(C) For purposes of paragraphs (1) and (2) of subdivision (c) of Section 1798.115, two separate lists:

(i) A list of the categories of personal information it has sold *or shared* about consumers in the preceding 12 months by reference to the enumerated category or

categories in subdivision (c) that most closely describe the personal information sold *or shared*, or if the business has not sold *or shared* consumers' personal information in the preceding 12 months, the business shall *prominently* disclose that fact *in its privacy policy*.

(ii) A list of the categories of personal information it has disclosed about consumers for a business purpose in the preceding 12 months by reference to the enumerated category in subdivision (c) that most closely ~~describe~~ *describes* the personal information disclosed, or if the business has not disclosed consumers' personal information for a business purpose in the preceding 12 months, the business shall disclose that fact.

(6) Ensure that all individuals responsible for handling consumer inquiries about the business' privacy practices or the business' compliance with this title are informed of all requirements in Sections 1798.100, 1798.105, 1798.106, 1798.110, 1798.115, 1798.125, and this section, and how to direct consumers to exercise their rights under those sections.

(7) Use any personal information collected from the consumer in connection with the business' verification of the consumer's request solely for the purposes of verification *and shall not further disclose the personal information, retain it longer than necessary for purposes of verification, or use it for unrelated purposes.*

(b) A business is not obligated to provide the information required by Sections 1798.110 and 1798.115 to the same consumer more than twice in a 12-month period.

(c) The categories of personal information required to be disclosed pursuant to Sections 1798.100, 1798.110, and 1798.115 shall follow the ~~definition~~ *definitions* of personal information *and sensitive personal information* in Section 1798.140 *by describing the categories of personal information using the specific terms set forth in subparagraphs (A) to (K), inclusive, of paragraph (1) of subdivision (v) of Section 1798.140 and by describing the categories of sensitive personal information using the specific terms set forth in paragraphs (1) to (9), inclusive, of subdivision (ae) of Section 1798.140.*

SEC. 13. Section 1798.135 of the Civil Code is amended to read:

1798.135. *Methods of Limiting Sale, Sharing, and Use of Personal Information and Use of Sensitive Personal Information*

~~1798.135~~ (a) A business that is ~~required to comply with Section 1798.120~~ *sells or shares consumers' personal information or uses or discloses consumers' sensitive personal information for purposes other than those authorized by subdivision (a) of Section*

1798.121 shall, in a form that is reasonably accessible to consumers:

(1) Provide a clear and conspicuous link on the business's ~~Internet~~ *internet homepage—homepages*, titled "Do Not Sell or Share My Personal Information," to an ~~Internet Web page~~ *internet web page* that enables a consumer, or a person authorized by the consumer, to opt-out of the sale or sharing of the consumer's personal information.

(2) Provide a clear and conspicuous link on the business' *internet homepages*, titled "Limit the Use of My Sensitive Personal Information," that enables a consumer, or a person authorized by the consumer, to limit the use or disclosure of the consumer's sensitive personal information to those uses authorized by subdivision (a) of Section 1798.121.

(3) At the business' discretion, utilize a single, clearly labeled link on the business' *internet homepages*, in lieu of complying with paragraphs (1) and (2), if that link easily allows a consumer to opt out of the sale or sharing of the consumer's personal information and to limit the use or disclosure of the consumer's sensitive personal information.

(4) In the event that a business responds to opt-out requests received pursuant to paragraph (1), (2), or (3) by informing the consumer of a charge for the use of any product or service, present the terms of any financial incentive offered pursuant to subdivision (b) of Section 1798.125 for the retention, use, sale, or sharing of the consumer's personal information.

(b) (1) A business shall not be required to comply with subdivision (a) if the business allows consumers to opt out of the sale or sharing of their personal information and to limit the use of their sensitive personal information through an opt-out preference signal sent with the consumer's consent by a platform, technology, or mechanism, based on technical specifications set forth in regulations adopted pursuant to paragraph (20) of subdivision (a) of Section 1798.185, to the business indicating the consumer's intent to opt out of the business' sale or sharing of the consumer's personal information or to limit the use or disclosure of the consumer's sensitive personal information, or both.

(2) A business that allows consumers to opt out of the sale or sharing of their personal information and to limit the use of their sensitive personal information pursuant to paragraph (1) may provide a link to a web page that enables the consumer to consent to the business ignoring the opt-out preference signal with respect to that business' sale or sharing of the consumer's personal information or the use of the consumer's sensitive personal information for additional purposes provided that:

(A) The consent web page also allows the consumer or a person authorized by the consumer to revoke the consent as easily as it is affirmatively provided.

(B) The link to the web page does not degrade the consumer's experience on the web page the consumer intends to visit and has a similar look, feel, and size relative to other links on the same web page.

(C) The consent web page complies with technical specifications set forth in regulations adopted pursuant to paragraph (20) of subdivision (a) of Section 1798.185.

(3) A business that complies with subdivision (a) is not required to comply with subdivision (b). For the purposes of clarity, a business may elect whether to comply with subdivision (a) or subdivision (b).

(c) A business that is subject to this section shall:

(1) ~~not~~ Not require a consumer to create an account or provide additional information beyond what is necessary in order to direct the business not to sell or share the consumer's personal information or to limit use or disclosure of the consumer's sensitive personal information.

(2) Include a description of a consumer's rights pursuant to ~~Section~~ Sections 1798.120 and 1798.121, along with a separate link to the "Do Not Sell or Share My Personal Information" ~~Internet Web page~~ *internet web page* and a separate link to the "Limit the Use of My Sensitive Personal Information" *internet web page*, if applicable, or a single link to both choices, or a statement that the business responds to and abides by opt-out preference signals sent by a platform, technology, or mechanism in accordance with subdivision (b), in:

(A) Its online privacy policy or policies if the business has an online privacy policy or policies.

(B) Any California-specific description of consumers' privacy rights.

(3) Ensure that all individuals responsible for handling consumer inquiries about the business's privacy practices or the business's compliance with this title are informed of all requirements in ~~Section~~ Sections 1798.120, 1798.121, and this section and how to direct consumers to exercise their rights under those sections.

(4) For consumers who exercise their right to opt-out of the sale or sharing of their personal information or limit the use or disclosure of their sensitive personal information, refrain from selling or sharing the consumer's personal information or using or disclosing the consumer's sensitive personal information collected by the business about the consumer and wait for at least 12 months before requesting that the consumer authorize the sale or sharing of the consumer's personal information or the use and disclosure of the consumer's sensitive personal information for additional purposes, or as authorized by regulations.

(5) For a ~~consumer who has opted out of the sale of the consumer's personal information, respect the~~

consumer's decision to opt-out for at least 12 months before requesting that the consumer authorize the sale of the consumer's personal information consumers under 16 years of age who do not consent to the sale or sharing of their personal information, refrain from selling or sharing the personal information of the consumer under 16 years of age and wait for at least 12 months before requesting the consumer's consent again, or as authorized by regulations or until the consumer attains 16 years of age.

(6) Use any personal information collected from the consumer in connection with the submission of the consumer's opt-out request solely for the purposes of complying with the opt-out request.

~~(b)~~ (d) Nothing in this title shall be construed to require a business to comply with the title by including the required links and text on the homepage that the business makes available to the public generally, if the business maintains a separate and additional homepage that is dedicated to California consumers and that includes the required links and text, and the business takes reasonable steps to ensure that California consumers are directed to the homepage for California consumers and not the homepage made available to the public generally.

~~(e)~~ (e) A consumer may authorize another person solely to opt-out of the sale or sharing of the consumer's personal information and to limit the use of the consumer's sensitive personal information on the consumer's behalf, including through an opt-out preference signal, as defined in paragraph (1) of subdivision (b), indicating the consumer's intent to opt out, and a business shall comply with an opt-out request received from a person authorized by the consumer to act on the consumer's behalf, pursuant to regulations adopted by the Attorney General regardless of whether the business has elected to comply with subdivision (a) or (b). For purposes of clarity, a business that elects to comply with subdivision (a) may respond to the consumer's opt-out consistent with Section 1798.125.

(f) If a business communicates a consumer's opt-out request to any person authorized by the business to collect personal information, the person shall thereafter only use that consumer's personal information for a business purpose specified by the business, or as otherwise permitted by this title, and shall be prohibited from:

(1) Selling or sharing the personal information.

(2) Retaining, using, or disclosing that consumer's personal information.

(A) For any purpose other than for the specific purpose of performing the services offered to the business.

(B) Outside of the direct business relationship between the person and the business.

(C) For a commercial purpose other than providing the services to the business.

(g) A business that communicates a consumer's opt-out request to a person pursuant to subdivision (f) shall not be liable under this title if the person receiving the opt-out request violates the restrictions set forth in the title provided that, at the time of communicating the opt-out request, the business does not have actual knowledge, or reason to believe, that the person intends to commit such a violation. Any provision of a contract or agreement of any kind that purports to waive or limit in any way this subdivision shall be void and unenforceable.

SEC. 14. Section 1798.140 of the Civil Code is amended to read:

1798.140. *Definitions*

~~1798.140.~~ For purposes of this title:

(a) "Advertising and marketing" means a communication by a business or a person acting on the business' behalf in any medium intended to induce a consumer to obtain goods, services, or employment.

~~(a)~~ (b) "Aggregate consumer information" means information that relates to a group or category of consumers, from which individual consumer identities have been removed, that is not linked or reasonably linkable to any consumer or household, including via a device. "Aggregate consumer information" does not mean one or more individual consumer records that have been deidentified.

~~(b)~~ (c) "Biometric information" means an individual's physiological, biological or behavioral characteristics, including information pertaining to an individual's deoxyribonucleic acid (DNA), that can be used or is intended to be used; singly or in combination with each other or with other identifying data, to establish individual identity. Biometric information includes, but is not limited to, imagery of the iris, retina, fingerprint, face, hand, palm, vein patterns, and voice recordings, from which an identifier template, such as a faceprint, a minutiae template, or a voiceprint, can be extracted, and keystroke patterns or rhythms, gait patterns or rhythms, and sleep, health, or exercise data that contain identifying information.

~~(e)~~ (d) "Business" means:

(1) A sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity that is organized or operated for the profit or financial benefit of its shareholders or other owners, that collects consumers' personal information, or on the behalf of which such information is collected and that alone, or jointly with others, determines the purposes and means of the processing of consumers' personal information, that does business in the State of California, and that satisfies one or more of the following thresholds:

(A) ~~Has~~ *As of January 1 of the calendar year, had annual gross revenues in excess of twenty-five million dollars (\$25,000,000) in the preceding calendar year, as adjusted pursuant to paragraph (5) of subdivision (a) of Section 1798.185.*

(B) ~~Alone or in combination, annually buys, receives for the business's commercial purposes, sells, or shares for commercial purposes, alone or in combination, the personal information of 50,000 100,000 or more consumers or; households, or devices.~~

(C) ~~Derives 50 percent or more of its annual revenues from selling or sharing consumers' personal information.~~

(2) Any entity that controls or is controlled by a business, as defined in paragraph (1), and that shares common branding with the business *and with whom the business shares consumers' personal information.* "Control" or "controlled" means ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a business; control in any manner over the election of a majority of the directors, or of individuals exercising similar functions; or the power to exercise a controlling influence over the management of a company. "Common branding" means a shared name, servicemark, or trademark *that the average consumer would understand that two or more entities are commonly owned.*

(3) *A joint venture or partnership composed of businesses in which each business has at least a 40 percent interest. For purposes of this title, the joint venture or partnership and each business that composes the joint venture or partnership shall separately be considered a single business, except that personal information in the possession of each business and disclosed to the joint venture or partnership shall not be shared with the other business.*

(4) *A person that does business in California, that is not covered by paragraph (1), (2), or (3) and that voluntarily certifies to the California Privacy Protection Agency that it is in compliance with, and agrees to be bound by, this title.*

~~(d)~~ (e) "Business purpose" means the use of personal information for the business's ~~or a service provider's~~ operational purposes, or other notified purposes, *or for the service provider or contractor's operational purposes, as defined by regulations adopted pursuant to paragraph (11) of subdivision (a) of Section 1798.185, provided that the use of personal information shall be reasonably necessary and proportionate to achieve the operational purpose for which the personal information was collected or processed or for another operational purpose that is compatible with the context in which the personal information was collected. Business purposes are:*

(1) ~~Auditing related to a current interaction with the consumer and concurrent transactions, including, but not limited to, counting ad impressions to unique visitors, verifying positioning and quality of ad impressions, and auditing compliance with this specification and other standards.~~

(2) ~~Detecting security incidents, protecting against malicious, deceptive, fraudulent, or illegal activity, and prosecuting those responsible for that activity. Helping to ensure security and integrity to the extent the use of the consumer's personal information is reasonably necessary and proportionate for these purposes.~~

(3) ~~Debugging to identify and repair errors that impair existing intended functionality.~~

(4) ~~Short-term, transient use, including, but not limited to, nonpersonalized advertising shown as part of a consumer's current interaction with the business, provided that the consumer's personal information is not disclosed to another third party and is not used to build a profile about a the consumer or otherwise alter an individual the consumer's experience outside the current interaction with the business., including, but not limited to, the contextual customization of ads shown as part of the same interaction.~~

(5) ~~Performing services on behalf of the business, or service provider, including maintaining or servicing accounts, providing customer service, processing or fulfilling orders and transactions, verifying customer information, processing payments, providing financing, providing advertising or marketing services, providing analytic services, providing storage, or providing similar services on behalf of the business or service provider.~~

(6) ~~Providing advertising and marketing services, except for cross-context behavioral advertising, to the consumer provided that, for the purpose of advertising and marketing, a service provider or contractor shall not combine the personal information of opted-out consumers that the service provider or contractor receives from, or on behalf of, the business with personal information that the service provider or contractor receives from, or on behalf of, another person or persons or collects from its own interaction with consumers.~~

~~(6)~~ (7) ~~Undertaking internal research for technological development and demonstration.~~

~~(7)~~ (8) ~~Undertaking activities to verify or maintain the quality or safety of a service or device that is owned, manufactured, manufactured for, or controlled by the business, and to improve, upgrade, or enhance the service or device that is owned, manufactured, manufactured for, or controlled by the business.~~

~~(e)~~ (f) "Collects," "collected," or "collection" means buying, renting, gathering, obtaining, receiving, or accessing any personal information pertaining to a consumer by any means. This includes receiving

information from the consumer, either actively or passively, or by observing the consumer's behavior.

~~(f)~~ (g) "Commercial purposes" means to advance a person's commercial or economic interests, such as by inducing another person to buy, rent, lease, join, subscribe to, provide, or exchange products, goods, property, information, or services, or enabling or effecting, directly or indirectly, a commercial transaction. ~~"Commercial purposes" do not include for the purpose of engaging in speech that state or federal courts have recognized as noncommercial speech, including political speech and journalism.~~

(h) "Consent" means any freely given, specific, informed, and unambiguous indication of the consumer's wishes by which the consumer, or the consumer's legal guardian, a person who has power of attorney, or a person acting as a conservator for the consumer, including by a statement or by a clear affirmative action, signifies agreement to the processing of personal information relating to the consumer for a narrowly defined particular purpose. Acceptance of a general or broad terms of use, or similar document, that contains descriptions of personal information processing along with other, unrelated information, does not constitute consent. Hovering over, muting, pausing, or closing a given piece of content does not constitute consent. Likewise, agreement obtained through use of dark patterns does not constitute consent.

~~(g)~~ (i) "Consumer" means a natural person who is a California resident, as defined in Section 17014 of Title 18 of the California Code of Regulations, as that section read on September 1, 2017, however identified, including by any unique identifier.

(j) (1) "Contractor" means a person to whom the business makes available a consumer's personal information for a business purpose, pursuant to a written contract with the business, provided that the contract:

(A) Prohibits the contractor from:

(i) Selling or sharing the personal information.

(ii) Retaining, using, or disclosing the personal information for any purpose other than for the business purposes specified in the contract, including retaining, using, or disclosing the personal information for a commercial purpose other than the business purposes specified in the contract, or as otherwise permitted by this title.

(iii) Retaining, using, or disclosing the information outside of the direct business relationship between the contractor and the business.

(iv) Combining the personal information that the contractor receives pursuant to a written contract with the business with personal information that it receives from or on behalf of another person or persons, or collects from its own interaction with the consumer,

provided that the contractor may combine personal information to perform any business purpose as defined in regulations adopted pursuant to paragraph (10) of subdivision (a) of Section 1798.185, except as provided for in paragraph (6) of subdivision (e) and in regulations adopted by the California Privacy Protection Agency.

(B) Includes a certification made by the contractor that the contractor understands the restrictions in subparagraph (A) and will comply with them.

(C) Permits, subject to agreement with the contractor, the business to monitor the contractor's compliance with the contract through measures, including, but not limited to, ongoing manual reviews and automated scans and regular assessments, audits, or other technical and operational testing at least once every 12 months.

(2) If a contractor engages any other person to assist it in processing personal information for a business purpose on behalf of the business, or if any other person engaged by the contractor engages another person to assist in processing personal information for that business purpose, it shall notify the business of that engagement, and the engagement shall be pursuant to a written contract binding the other person to observe all the requirements set forth in paragraph (1).

(k) "Cross-context behavioral advertising" means the targeting of advertising to a consumer based on the consumer's personal information obtained from the consumer's activity across businesses, distinctly-branded websites, applications, or services, other than the business, distinctly-branded website, application, or service with which the consumer intentionally interacts.

(l) "Dark pattern" means a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decisionmaking, or choice, as further defined by regulation.

~~(h)~~ (m) "Deidentified" means information that cannot reasonably be used to infer information about, or otherwise be linked to, a particular consumer provided that the business that possesses the information:

(1) Takes reasonable measures to ensure that the information cannot be associated with a consumer or household.

(2) Publicly commits to maintain and use the information in deidentified form and not to attempt to reidentify the information, except that the business may attempt to reidentify the information solely for the purpose of determining whether its deidentification processes satisfy the requirements of this subdivision.

(3) Contractually obligates any recipients of the information to comply with all provisions of this subdivision. identify, relate to, describe, be capable of being associated with, or be linked, directly or

~~indirectly, to a particular consumer, provided that a business that uses deidentified information:~~

~~(1) Has implemented technical safeguards that prohibit reidentification of the consumer to whom the information may pertain.~~

~~(2) Has implemented business processes that specifically prohibit reidentification of the information.~~

~~(3) Has implemented business processes to prevent inadvertent release of deidentified information.~~

~~(4) Makes no attempt to reidentify the information.~~

~~(i) (n) "Designated methods for submitting requests" means a mailing address, email address, internet web page, internet web portal, toll-free telephone number, or other applicable contact information, whereby consumers may submit a request or direction under this title, and any new, consumer-friendly means of contacting a business, as approved by the Attorney General pursuant to Section 1798.185.~~

~~(j) (o) "Device" means any physical object that is capable of connecting to the Internet, directly or indirectly, or to another device.~~

~~(k) "Health insurance information" means a consumer's insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the consumer, or any information in the consumer's application and claims history, including any appeals records, if the information is linked or reasonably linkable to a consumer or household, including via a device, by a business or service provider.~~

~~(l) (p) "Homepage" means the introductory page of an internet website and any internet web page where personal information is collected. In the case of an online service, such as a mobile application, homepage means the application's platform page or download page, a link within the application, such as from the application configuration, "About," "Information," or settings page, and any other location that allows consumers to review the notice notices required by subdivision (a) of Section 1798.135 *this title*, including, but not limited to, before downloading the application.~~

~~(q) "Household" means a group, however identified, of consumers who cohabit with one another at the same residential address and share use of common devices or services.~~

~~(m) (r) "Infer" or "inference" means the derivation of information, data, assumptions, or conclusions from facts, evidence, or another source of information or data.~~

~~(s) "Intentionally interacts" means when the consumer intends to interact with a person, or disclose personal information to a person, via one or more deliberate interactions, including visiting the person's website or purchasing a good or service from the~~

person. Hovering over, muting, pausing, or closing a given piece of content does not constitute a consumer's intent to interact with a person.

(t) "Nonpersonalized advertising" means advertising and marketing that is based solely on a consumer's personal information derived from the consumer's current interaction with the business with the exception of the consumer's precise geolocation.

~~(n) (u) "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.~~

~~(o) (v) (1) "Personal information" means information that identifies, relates to, describes, is *reasonably* capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household. Personal information includes, but is not limited to, the following if it identifies, relates to, describes, is *reasonably* capable of being associated with, or could be reasonably linked, directly or indirectly, with a particular consumer or household:~~

~~(A) Identifiers such as a real name, alias, postal address, unique personal identifier, online identifier, Internet Protocol address, email address, account name, social security number, driver's license number, passport number, or other similar identifiers.~~

~~(B) Any categories of personal information described in subdivision (e) of Section 1798.80.~~

~~(C) Characteristics of protected classifications under California or federal law.~~

~~(D) Commercial information, including records of personal property, products or services purchased, obtained, or considered, or other purchasing or consuming histories or tendencies.~~

~~(E) Biometric information.~~

~~(F) Internet or other electronic network activity information, including, but not limited to, browsing history, search history, and information regarding a consumer's interaction with an internet website application, or advertisement.~~

~~(G) Geolocation data.~~

~~(H) Audio, electronic, visual, thermal, olfactory, or similar information.~~

~~(I) Professional or employment-related information.~~

~~(J) Education information, defined as information that is not publicly available personally identifiable information as defined in the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).~~

~~(K) Inferences drawn from any of the information identified in this subdivision to create a profile about a consumer reflecting the consumer's preferences, characteristics, psychological trends, predispositions,~~

behavior, attitudes, intelligence, abilities, and aptitudes.

(L) *Sensitive personal information.*

(2) “Personal information” does not include publicly available information *or lawfully obtained, truthful information that is a matter of public concern.* For purposes of this paragraph, “publicly available” means: information that is lawfully made available from federal, state, or local government records, *or information that a business has a reasonable basis to believe is lawfully made available to the general public by the consumer or from widely distributed media, or by the consumer; or information made available by a person to whom the consumer has disclosed the information if the consumer has not restricted the information to a specific audience.* “Publicly available” does not mean biometric information collected by a business about a consumer without the consumer’s knowledge.

(3) “Personal information” does not include consumer information that is deidentified or aggregate consumer information.

(w) *“Precise geolocation” means any data that is derived from a device and that is used or intended to be used to locate a consumer within a geographic area that is equal to or less than the area of a circle with a radius of 1,850 feet, except as prescribed by regulations.*

~~(p)~~ (x) “Probabilistic identifier” means the identification of a consumer or a *consumer’s* device to a degree of certainty of more probable than not based on any categories of personal information included in, or similar to, the categories enumerated in the definition of personal information.

~~(q)~~ (y) “Processing” means any operation or set of operations that are performed on personal ~~data~~ *information* or on sets of personal ~~data~~ *information*, whether or not by automated means.

(z) *“Profiling” means any form of automated processing of personal information, as further defined by regulations pursuant to paragraph (16) of subdivision (a) of Section 1798.185, to evaluate certain personal aspects relating to a natural person and in particular to analyze or predict aspects concerning that natural person’s performance at work, economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.*

~~(t)~~ (aa) “Pseudonymize” or “Pseudonymization” means the processing of personal information in a manner that renders the personal information no longer attributable to a specific consumer without the use of additional information, provided that the additional information is kept separately and is subject to technical and organizational measures to ensure that the personal information is not attributed to an identified or identifiable consumer.

~~(s)~~ (ab) “Research” means scientific *analysis*, systematic study and observation, including basic research or applied research that is *designed to develop or contribute to public or scientific knowledge in the public interest* and that adheres *or otherwise conforms* to all other applicable ethics and privacy laws, ~~or including, but not limited to,~~ studies conducted in the public interest in the area of public health. Research with personal information that may have been collected from a consumer in the course of the consumer’s interactions with a business’s service or device for other purposes shall be:

(1) Compatible with the business purpose for which the personal information was collected.

(2) Subsequently pseudonymized and deidentified, or deidentified and in the aggregate, such that the information cannot reasonably identify, relate to, describe, be capable of being associated with, or be linked, directly or indirectly, to a particular consumer, *by a business.*

(3) Made subject to technical safeguards that prohibit reidentification of the consumer to whom the information may pertain, *other than as needed to support the research.*

(4) Subject to business processes that specifically prohibit reidentification of the information, *other than as needed to support the research.*

(5) Made subject to business processes to prevent inadvertent release of deidentified information.

(6) Protected from any reidentification attempts.

(7) Used solely for research purposes that are compatible with the context in which the personal information was collected.

(8) ~~Not be used for any commercial purpose.~~

~~(r)~~ Subjected by the business conducting the research to additional security controls that limit access to the research data to only those individuals ~~in a business~~ as are necessary to carry out the research purpose.

(ac) *“Security and integrity” means the ability of:*

(1) *Networks or information systems to detect security incidents that compromise the availability, authenticity, integrity, and confidentiality of stored or transmitted personal information.*

(2) *Businesses to detect security incidents, resist malicious, deceptive, fraudulent, or illegal actions and to help prosecute those responsible for those actions.*

(3) *Businesses to ensure the physical safety of natural persons.*

~~(t)~~ (ad) (1) “Sell,” “selling,” “sale,” or “sold,” means selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic or other means, a consumer’s personal information by the business to ~~another business or a~~

third party for monetary or other valuable consideration.

(2) For purposes of this title, a business does not sell personal information when:

(A) A consumer uses or directs the business to intentionally:

(i) Disclose personal information.

~~(ii) Uses the business to intentionally interact with a one or more third party parties. provided the third party does not also sell the personal information, unless that disclosure would be consistent with the provisions of this title. An intentional interaction occurs when the consumer intends to interact with the third party, via one or more deliberate interactions. Hovering over, muting, pausing, or closing a given piece of content does not constitute a consumer's intent to interact with a third party.~~

(B) The business uses or shares an identifier for a consumer who has opted out of the sale of the consumer's personal information *or limited the use of the consumer's sensitive personal information* for the purposes of alerting ~~third parties~~ persons that the consumer has opted out of the sale of the consumer's personal information *or limited the use of the consumer's sensitive personal information*.

~~(C) The business uses or shares with a service provider personal information of a consumer that is necessary to perform a business purpose if both of the following conditions are met:~~

~~(i) The business has provided notice of that information being used or shared in its terms and conditions consistent with Section 1798.135.~~

~~(ii) The service provider does not further collect, sell, or use the personal information of the consumer except as necessary to perform the business purpose.~~

~~(D)~~ (C) The business transfers to a third party the personal information of a consumer as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the business, provided that information is used or shared consistently with Sections 1798.110 and 1798.115 *this title*. If a third party materially alters how it uses or shares the personal information of a consumer in a manner that is materially inconsistent with the promises made at the time of collection, it shall provide prior notice of the new or changed practice to the consumer. The notice shall be sufficiently prominent and robust to ensure that existing consumers can easily exercise their choices consistently with Section 1798.120 *this title*. This subparagraph does not authorize a business to make material, retroactive privacy policy changes or make other changes in their privacy policy in a manner that would violate the Unfair and Deceptive Practices Act (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code).

(ae) "Sensitive personal information" means:

(1) Personal information that reveals:

(A) A consumer's social security, driver's license, state identification card, or passport number.

(B) A consumer's account log-in, financial account, debit card, or credit card number in combination with any required security or access code, password, or credentials allowing access to an account.

(C) A consumer's precise geolocation.

(D) A consumer's racial or ethnic origin, religious or philosophical beliefs, or union membership.

(E) The contents of a consumer's mail, email, and text messages unless the business is the intended recipient of the communication.

(F) A consumer's genetic data.

(2) (A) The processing of biometric information for the purpose of uniquely identifying a consumer.

(B) Personal information collected and analyzed concerning a consumer's health.

(C) Personal information collected and analyzed concerning a consumer's sex life or sexual orientation.

(3) Sensitive personal information that is "publicly available" pursuant to paragraph (2) of subdivision (v) shall not be considered sensitive personal information or personal information.

(u) (af) "Service" or "services" means work, labor, and services, including services furnished in connection with the sale or repair of goods.

(v) (ag) (1) "Service provider" means a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity that is organized or operated for the profit or financial benefit of its shareholders or other owners, *person* that processes personal information on behalf of a business and ~~to which that receives from or on behalf of~~ the business discloses a consumer's personal information for a business purpose pursuant to a written contract, provided that the contract prohibits the ~~entity receiving the information~~ *person* from:

(A) Selling or sharing the personal information.

(B) Retaining, using, or disclosing the personal information for any purpose other than for the ~~specific purpose of performing the services-business purposes~~ specified in the contract for the business, ~~or as otherwise permitted by this title~~, including retaining, using, or disclosing the personal information for a commercial purpose other than ~~providing the services~~ *the business purposes* specified in the contract with the business, *or as otherwise permitted by this title*.

(C) Retaining, using, or disclosing the information outside of the direct business relationship between the service provider and the business.

(D) Combining the personal information that the service provider receives from, or on behalf of, the

business with personal information that it receives from, or on behalf of, another person or persons, or collects from its own interaction with the consumer, provided that the service provider may combine personal information to perform any business purpose as defined in regulations adopted pursuant to paragraph (10) of subdivision (a) of Section 1798.185, except as provided for in paragraph (6) of subdivision (e) of this section and in regulations adopted by the California Privacy Protection Agency. The contract may, subject to agreement with the service provider, permit the business to monitor the service provider's compliance with the contract through measures, including, but not limited to, ongoing manual reviews and automated scans and regular assessments, audits, or other technical and operational testing at least once every 12 months.

(2) If a service provider engages any other person to assist it in processing personal information for a business purpose on behalf of the business, or if any other person engaged by the service provider engages another person to assist in processing personal information for that business purpose, it shall notify the business of that engagement, and the engagement shall be pursuant to a written contract binding the other person to observe all the requirements set forth in paragraph (1).

(ah) (1) "Share," "shared," or "sharing" means sharing, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic or other means, a consumer's personal information by the business to a third party for cross-context behavioral advertising, whether or not for monetary or other valuable consideration, including transactions between a business and a third party for cross-context behavioral advertising for the benefit of a business in which no money is exchanged.

(2) For purposes of this title, a business does not share personal information when:

(A) A consumer uses or directs the business to intentionally disclose personal information or intentionally interact with one or more third parties.

(B) The business uses or shares an identifier for a consumer who has opted out of the sharing of the consumer's personal information or limited the use of the consumer's sensitive personal information for the purposes of alerting persons that the consumer has opted out of the sharing of the consumer's personal information or limited the use of the consumer's sensitive personal information.

(C) The business transfers to a third party the personal information of a consumer as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the business, provided that information is used or shared consistently with this title. If a third

party materially alters how it uses or shares the personal information of a consumer in a manner that is materially inconsistent with the promises made at the time of collection, it shall provide prior notice of the new or changed practice to the consumer. The notice shall be sufficiently prominent and robust to ensure that existing consumers can easily exercise their choices consistently with this title. This subparagraph does not authorize a business to make material, retroactive privacy policy changes or make other changes in their privacy policy in a manner that would violate the Unfair and Deceptive Practices Act (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code).

(w) (ai) "Third party" means a person who is not any of the following:

(1) The business with whom the consumer intentionally interacts and that collects personal information from the consumer as part of the consumer's current interaction with the business consumers under this title.

(2) A service provider to the business.

(3) A contractor.

(A) A person to whom the business discloses a consumer's personal information for a business purpose pursuant to a written contract, provided that the contract:

(i) Prohibits the person receiving the personal information from:

(I) Selling the personal information.

(II) Retaining, using, or disclosing the personal information for any purpose other than for the specific purpose of performing the services specified in the contract, including retaining, using, or disclosing the personal information for a commercial purpose other than providing the services specified in the contract.

(III) Retaining, using, or disclosing the information outside of the direct business relationship between the person and the business.

(ii) Includes a certification made by the person receiving the personal information that the person understands the restrictions in subparagraph (A) and will comply with them.

(B) A person covered by this paragraph that violates any of the restrictions set forth in this title shall be liable for the violations. A business that discloses personal information to a person covered by this paragraph in compliance with this paragraph shall not be liable under this title if the person receiving the personal information uses it in violation of the restrictions set forth in this title, provided that, at the time of disclosing the personal information, the business does not have actual knowledge, or reason to believe, that the person intends to commit such a violation.

(x) (aj) “Unique identifier” or “Unique personal identifier” means a persistent identifier that can be used to recognize a consumer, a family, or a device that is linked to a consumer or family, over time and across different services, including, but not limited to, a device identifier; an Internet Protocol address; cookies, beacons, pixel tags, mobile ad identifiers, or similar technology; customer number, unique pseudonym, or user alias; telephone numbers, or other forms of persistent or probabilistic identifiers that can be used to identify a particular consumer or device *that is linked to a consumer or family*. For purposes of this subdivision, “family” means a custodial parent or guardian and any ~~minor~~ children *under 18 years of age* over which the parent or guardian has custody.

(y) (ak) “Verifiable consumer request” means a request that is made by a consumer, by a consumer on behalf of the consumer’s minor child, ~~or~~ by a natural person or a person registered with the Secretary of State, authorized by the consumer to act on the consumer’s behalf, *or by a person who has power of attorney or is acting as a conservator for the consumer*, and that the business can *reasonably* verify, *using commercially reasonable methods*, pursuant to regulations adopted by the Attorney General pursuant to paragraph (7) of subdivision (a) of Section 1798.185 to be the consumer about whom the business has collected personal information. A business is not obligated to provide information to the consumer pursuant to Sections 1798.110 and 1798.115, *to delete personal information pursuant to Section 1798.105, or to correct inaccurate personal information pursuant to Section 1798.106*, if the business cannot verify, pursuant to this subdivision and regulations adopted by the Attorney General pursuant to paragraph (7) of subdivision (a) of Section 1798.185, that the consumer making the request is the consumer about whom the business has collected information or is a person authorized by the consumer to act on such consumer’s behalf.

SEC. 15. Section 1798.145 of the Civil Code is amended to read:

1798.145. Exemptions

~~1798.145.~~ (a) The obligations imposed on businesses by this title shall not restrict a business’s ability to:

- (1) Comply with federal, state, or local laws *or comply with a court order or subpoena to provide information*.
- (2) Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, or local authorities. *Law enforcement agencies, including police and sheriff’s departments, may direct a business pursuant to a law enforcement agency-approved investigation with an active case number not to delete a consumer’s personal information, and upon receipt of that direction, a business shall not delete the personal information for 90 days in order to allow the law enforcement agency to obtain a court-issued*

subpoena, order, or warrant to obtain a consumer’s personal information. For good cause and only to the extent necessary for investigatory purposes, a law enforcement agency may direct a business not to delete the consumer’s personal information for additional 90-day periods. A business that has received direction from a law enforcement agency not to delete the personal information of a consumer who has requested deletion of the consumer’s personal information shall not use the consumer’s personal information for any purpose other than retaining it to produce to law enforcement in response to a court-issued subpoena, order, or warrant unless the consumer’s deletion request is subject to an exemption from deletion under this title.

(3) Cooperate with law enforcement agencies concerning conduct or activity that the business, service provider, or third party reasonably and in good faith believes may violate federal, state, or local law.

(4) *Cooperate with a government agency request for emergency access to a consumer’s personal information if a natural person is at risk or danger of death or serious physical injury provided that:*

(A) *The request is approved by a high-ranking agency officer for emergency access to a consumer’s personal information.*

(B) *The request is based on the agency’s good faith determination that it has a lawful basis to access the information on a nonemergency basis.*

(C) *The agency agrees to petition a court for an appropriate order within three days and to destroy the information if that order is not granted.*

~~(4)~~ (5) Exercise or defend legal claims.

~~(5)~~ (6) Collect, use, retain, sell, *share*, or disclose ~~consumer~~ *consumers’* personal information that is deidentified or ~~in the~~ aggregate consumer information.

~~(6)~~ (7) Collect, ~~or~~ sell, *or share* a consumer’s personal information if every aspect of that commercial conduct takes place wholly outside of California. For purposes of this title, commercial conduct takes place wholly outside of California if the business collected that information while the consumer was outside of California, no part of the sale of the consumer’s personal information occurred in California, and no personal information collected while the consumer was in California is sold. This paragraph shall not ~~permit~~ *prohibit* a business from storing, including on a device, personal information about a consumer when the consumer is in California and then collecting that personal information when the consumer and stored personal information is outside of California.

(b) The obligations imposed on businesses by Sections 1798.110, 1798.115, 1798.120, 1798.121, 1798.130, and ~~to~~ 1798.135, ~~inclusive~~, shall not apply where compliance by the business with the title would violate an evidentiary privilege under

California law and shall not prevent a business from providing the personal information of a consumer to a person covered by an evidentiary privilege under California law as part of a privileged communication.

(c) (1) This title shall not apply to any of the following:

(A) Medical information governed by the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1) or protected health information that is collected by a covered entity or business associate governed by the privacy, security, and breach notification rules issued by the United States Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) and the Health Information Technology for Economic and Clinical Health Act (Public Law 111-5).

(B) A provider of health care governed by the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1) or a covered entity governed by the privacy, security, and breach notification rules issued by the United States Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), to the extent the provider or covered entity maintains patient information in the same manner as medical information or protected health information as described in subparagraph (A) of this section.

(C) ~~Personal information~~ information collected as part of a clinical trial *or other biomedical research study* subject to, *or conducted in accordance with*, the Federal Policy for the Protection of Human Subjects, also known as the Common Rule, pursuant to good clinical practice guidelines issued by the International Council for Harmonisation or pursuant to human subject protection requirements of the United States Food and Drug Administration, *provided that the information is not sold or shared in a manner not permitted by this subparagraph, and if it is inconsistent, that participants be informed of that use and provide consent.*

(2) For purposes of this subdivision, the definitions of “medical information” and “provider of health care” in Section 56.05 shall apply and the definitions of “business associate,” “covered entity,” and “protected health information” in Section 160.103 of Title 45 of the Code of Federal Regulations shall apply.

(d) (1) This title shall not apply to an activity involving the collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general

reputation, personal characteristics, or mode of living by a consumer reporting agency, as defined in subdivision (f) of Section 1681a of Title 15 of the United States Code, by a furnisher of information, as set forth in Section 1681s-2 of Title 15 of the United States Code, who provides information for use in a consumer report, as defined in subdivision (d) of Section 1681a of Title 15 of the United States Code, and by a user of a consumer report as set forth in Section 1681b of Title 15 of the United States Code.

(2) Paragraph (1) shall apply only to the extent that such activity involving the collection, maintenance, disclosure, sale, communication or use of such information by that agency, furnisher, or user is subject to regulation under the Fair Credit Reporting Act, section 1681 et seq., Title 15 of the United States Code and the information is not *collected, maintained, used, communicated, disclosed, or sold* except as authorized by the Fair Credit Reporting Act.

(3) This subdivision shall not apply to Section 1798.150.

(e) This title shall not apply to personal information collected, processed, sold, or disclosed pursuant ~~pursuant~~ *subject* to the federal Gramm-Leach-Bliley Act (Public Law 106-102), and implementing regulations, or the California Financial Information Privacy Act (Division 1.4 (commencing with Section 4050) of the Financial Code), *or the federal Farm Credit Act of 1971 (as amended in 12 U.S.C. 2001-2279cc and implementing regulations, 12 C.F.R. 600, et seq.)*. This subdivision shall not apply to Section 1798.150.

(f) This title shall not apply to personal information collected, processed, sold, or disclosed pursuant to the Driver’s Privacy Protection Act of 1994 (18 U.S.C. Sec. 2721 et seq.). This subdivision shall not apply to Section 1798.150.

(g) (1) Section 1798.120 shall not apply to vehicle information or ownership information retained or shared between a new motor vehicle dealer, as defined in Section 426 of the Vehicle Code, and the vehicle’s manufacturer, as defined in Section 672 of the Vehicle Code, if the vehicle or ownership information is shared for the purpose of effectuating, or in anticipation of effectuating, a vehicle repair covered by a vehicle warranty or a recall conducted pursuant to Sections 30118 to 30120, inclusive, of Title 49 of the United States Code, provided that the new motor vehicle dealer or vehicle manufacturer with which that vehicle information or ownership information is shared does not sell, share, or use that information for any other purpose.

(2) For purposes of this subdivision:

(A) “Vehicle information” means the vehicle information number, make, model, year, and odometer reading.

(B) "Ownership information" means the name or names of the registered owner or owners and the contact information for the owner or owners.

(h) (1) This title shall not apply to any of the following:

(A) Personal information that is collected by a business about a natural person in the course of the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or contractor of that business to the extent that the natural person's personal information is collected and used by the business solely within the context of the natural person's role or former role as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or a contractor of that business.

(B) Personal information that is collected by a business that is emergency contact information of the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or contractor of that business to the extent that the personal information is collected and used solely within the context of having an emergency contact on file.

(C) Personal information that is necessary for the business to retain to administer benefits for another natural person relating to the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or contractor of that business to the extent that the personal information is collected and used solely within the context of administering those benefits.

(2) For purposes of this subdivision:

(A) "Contractor" means a natural person who provides any service to a business pursuant to a written contract.

(B) "Director" means a natural person designated in the articles of incorporation as such or elected by the incorporators and natural persons designated, elected, or appointed by any other name or title to act as directors, and their successors.

(C) "Medical staff member" means a licensed physician and surgeon, dentist, or podiatrist, licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code and a clinical psychologist as defined in Section 1316.5 of the Health and Safety Code.

(D) "Officer" means a natural person elected or appointed by the board of directors to manage the daily operations of a corporation, such as a chief executive officer, president, secretary, or treasurer.

(E) "Owner" means a natural person who meets one of the following:

(i) Has ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a business.

(ii) Has control in any manner over the election of a majority of the directors or of individuals exercising similar functions.

(iii) Has the power to exercise a controlling influence over the management of a company.

(3) This subdivision shall not apply to subdivision (b) of Section 1798.100 or Section 1798.150.

(4) This subdivision shall become inoperative on January 1, 2021.

(i) (h) Notwithstanding a business's obligations to respond to and honor consumer rights requests pursuant to this title:

(1) A time period for a business to respond to a consumer for any verified verifiable consumer request may be extended by up to a total of 90 additional days where necessary, taking into account the complexity and number of the requests. The business shall inform the consumer of any such extension within 45 days of receipt of the request, together with the reasons for the delay.

(2) If the business does not take action on the request of the consumer, the business shall inform the consumer, without delay and at the latest within the time period permitted of response by this section, of the reasons for not taking action and any rights the consumer may have to appeal the decision to the business.

(3) If requests from a consumer are manifestly unfounded or excessive, in particular because of their repetitive character, a business may either charge a reasonable fee, taking into account the administrative costs of providing the information or communication or taking the action requested, or refuse to act on the request and notify the consumer of the reason for refusing the request. The business shall bear the burden of demonstrating that any verified verifiable consumer request is manifestly unfounded or excessive.

(j) (i) (1) A business that discloses personal information to a service provider or contractor in compliance with this title shall not be liable under this title if the service provider or contractor receiving the personal information uses it in violation of the restrictions set forth in the title, provided that, at the time of disclosing the personal information, the business does not have actual knowledge, or reason to believe, that the service provider or contractor intends to commit such a violation. A service provider or contractor shall likewise not be liable under this title for the obligations of a business for which it provides services as set forth in this title provided that the service provider or contractor shall be liable for its own violations of this title.

(2) A business that discloses personal information of a consumer, with the exception of consumers who have exercised their right to opt out of the sale or

sharing of their personal information, consumers who have limited the use or disclosure of their sensitive personal information, and minor consumers who have not opted in to the collection or sale of their personal information, to a third party pursuant to a written contract that requires the third party to provide the same level of protection of the consumer's rights under this title as provided by the business shall not be liable under this title if the third party receiving the personal information uses it in violation of the restrictions set forth in this title provided that, at the time of disclosing the personal information, the business does not have actual knowledge, or reason to believe, that the third party intends to commit such a violation.

~~(k)~~ (j) This title shall not be construed to require a business to collect personal information that it would not otherwise collect in the ordinary course of its business, retain personal information for longer than it would otherwise retain such information in the ordinary course of its business, or, service provider, or contractor to:

(1) Reidentify or otherwise link information that, in the ordinary course of business, is not maintained in a manner that would be considered personal information.

(2) Retain any personal information about a consumer if, in the ordinary course of business, that information about the consumer would not be retained.

(3) Maintain information in identifiable, linkable, or associable form, or collect, obtain, retain, or access any data or technology, in order to be capable of linking or associating a verifiable consumer request with personal information.

~~(A)~~ (k) The rights afforded to consumers and the obligations imposed on the business in this title shall not adversely affect the rights and freedoms of other consumers natural persons. A verifiable consumer request for specific pieces of personal information, pursuant to Section 1798.110 to delete a consumer's personal information, pursuant to Section 1798.105, or to correct inaccurate personal information, pursuant to Section 1798.106, shall not extend to personal information about the consumer that belongs to, or the business maintains on behalf of, another natural person. A business may rely on representations made in a verifiable consumer request as to rights with respect to personal information and is under no legal requirement to seek out other persons that may have or claim to have rights to personal information, and a business is under no legal obligation under this title or any other provision of law to take any action under this title in the event of a dispute between or among persons claiming rights to personal information in the business' possession.

~~(m)~~ (l) The rights afforded to consumers and the obligations imposed on any business under this title

shall not apply to the extent that they infringe on the noncommercial activities of a person or entity described in subdivision (b) of Section 2 of Article I of the California Constitution.

(m) (1) This title shall not apply to any of the following:

(A) Personal information that is collected by a business about a natural person in the course of the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or independent contractor of, that business to the extent that the natural person's personal information is collected and used by the business solely within the context of the natural person's role or former role as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or an independent contractor of, that business.

(B) Personal information that is collected by a business that is emergency contact information of the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or independent contractor of, that business to the extent that the personal information is collected and used solely within the context of having an emergency contact on file.

(C) Personal information that is necessary for the business to retain to administer benefits for another natural person relating to the natural person acting as a job applicant to, an employee of, owner of, director of, officer of, medical staff member of, or independent contractor of, that business to the extent that the personal information is collected and used solely within the context of administering those benefits.

(2) For purposes of this subdivision:

(A) "Independent contractor" means a natural person who provides any service to a business pursuant to a written contract.

(B) "Director" means a natural person designated in the articles of incorporation as director, or elected by the incorporators and natural persons designated, elected, or appointed by any other name or title to act as directors, and their successors.

(C) "Medical staff member" means a licensed physician and surgeon, dentist, or podiatrist, licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code and a clinical psychologist as defined in Section 1316.5 of the Health and Safety Code.

(D) "Officer" means a natural person elected or appointed by the board of directors to manage the daily operations of a corporation, including a chief executive officer, president, secretary, or treasurer.

(E) "Owner" means a natural person who meets one of the following criteria:

(i) Has ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a business.

(ii) Has control in any manner over the election of a majority of the directors or of individuals exercising similar functions.

(iii) Has the power to exercise a controlling influence over the management of a company.

(3) This subdivision shall not apply to subdivision (a) of Section 1798.100 or Section 1798.150.

(4) This subdivision shall become inoperative on January 1, 2023.

(n) (1) The obligations imposed on businesses by Sections 1798.100, 1798.105, 1798.106, 1798.110, 1798.115, 1798.121, 1798.130, and 1798.135 shall not apply to personal information reflecting a written or verbal communication or a transaction between the business and the consumer, where the consumer is a natural person who acted or is acting as an employee, owner, director, officer, or independent contractor of a company, partnership, sole proprietorship, non-profit, or government agency and whose communications or transaction with the business occur solely within the context of the business conducting due diligence regarding, or providing or receiving a product or service to or from such company, partnership, sole proprietorship, non-profit, or government agency.

(2) For purposes of this subdivision:

(A) “Contractor” “Independent contractor” means a natural person who provides any service to a business pursuant to a written contract.

(B) “Director” means a natural person designated in the articles of incorporation as such or elected by the incorporators and natural persons designated, elected, or appointed by any other name or title to act as directors, and their successors.

(C) “Officer” means a natural person elected or appointed by the board of directors to manage the daily operations of a corporation, such as a chief executive officer, president, secretary, or treasurer.

(D) “Owner” means a natural person who meets one of the following:

(i) Has ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a business.

(ii) Has control in any manner over the election of a majority of the directors or of individuals exercising similar functions.

(iii) Has the power to exercise a controlling influence over the management of a company.

(3) This subdivision shall become inoperative on January 1, 2021- 2023.

(o) (1) Sections 1798.105 and 1798.120 shall not apply to a commercial credit reporting agency’s collection, processing, sale, or disclosure of business controller information to the extent the commercial credit reporting agency uses the business controller information solely to identify the relationship of a consumer to a business that the consumer owns or contact the consumer only in the consumer’s role as the owner, director, officer, or management employee of the business.

(2) For the purposes of this subdivision:

(A) “Business controller information” means the name or names of the owner or owners, director, officer, or management employee of a business and the contact information, including a business title, for the owner or owners, director, officer, or management employee.

(B) “Commercial credit reporting agency” has the meaning set forth in subdivision (b) of Section 1785.42.

(C) “Owner” means a natural person that meets one of the following:

(i) Has ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a business.

(ii) Has control in any manner over the election of a majority of the directors or of individuals exercising similar functions.

(iii) Has the power to exercise a controlling influence over the management of a company.

(D) “Director” means a natural person designated in the articles of incorporation of a business as director, or elected by the incorporators and natural persons designated, elected, or appointed by any other name or title to act as directors, and their successors.

(E) “Officer” means a natural person elected or appointed by the board of directors of a business to manage the daily operations of a corporation, including a chief executive officer, president, secretary, or treasurer.

(F) “Management employee” means a natural person whose name and contact information is reported to or collected by a commercial credit reporting agency as the primary manager of a business and used solely within the context of the natural person’s role as the primary manager of the business.

(p) The obligations imposed on businesses in Sections 1798.105, 1798.106, 1798.110, and 1798.115 shall not apply to household data.

(q) (1) This title does not require a business to comply with a verifiable consumer request to delete a consumer’s personal information under Section 1798.105 to the extent the verifiable consumer request applies to a student’s grades, educational scores, or educational test results that the business

holds on behalf of a local educational agency, as defined in subdivision (d) of Section 49073.1 of the Education Code, at which the student is currently enrolled. If a business does not comply with a request pursuant to this section, it shall notify the consumer that it is acting pursuant to this exception.

(2) This title does not require, in response to a request pursuant to Section 1798.110, that a business disclose on educational standardized assessment or educational assessment or a consumer's specific responses to the educational standardized assessment or educational assessment if consumer access, possession, or control would jeopardize the validity and reliability of that educational standardized assessment or educational assessment. If a business does not comply with a request pursuant to this section, it shall notify the consumer that it is acting pursuant to this exception.

(3) For purposes of this subdivision:

(A) "Educational standardized assessment or educational assessment" means a standardized or nonstandardized quiz, test, or other assessment used to evaluate students in or for entry to kindergarten and grades 1 to 12, inclusive, schools, postsecondary institutions, vocational programs, and postgraduate programs that are accredited by an accrediting agency or organization recognized by the State of California or the United States Department of Education, as well as certification and licensure examinations used to determine competency and eligibility to receive certification or licensure from a government agency or government certification body.

(B) "Jeopardize the validity and reliability of that educational standardized assessment or educational assessment" means releasing information that would provide an advantage to the consumer who has submitted a verifiable consumer request or to another natural person.

(r) Sections 1798.105 and 1798.120 shall not apply to a business' use, disclosure, or sale of particular pieces of a consumer's personal information if the consumer has consented to the business' use, disclosure, or sale of that information to produce a physical item, including a school yearbook containing the consumer's photograph if:

(1) The business has incurred significant expense in reliance on the consumer's consent.

(2) Compliance with the consumer's request to opt out of the sale of the consumer's personal information or to delete the consumer's personal information would not be commercially reasonable.

(3) The business complies with the consumer's request as soon as it is commercially reasonable to do so.

SEC. 16. Section 1798.150 of the Civil Code is amended to read:

1798.150. *Personal Information Security Breaches*

~~1798.150.~~ (a) (1) Any consumer whose nonencrypted and nonredacted personal information, as defined in subparagraph (A) of paragraph (1) of subdivision (d) of Section 1798.81.5, or whose email address in combination with a password or security question and answer that would permit access to the account is subject to an unauthorized access and exfiltration, theft, or disclosure as a result of the business's violation of the duty to implement and maintain reasonable security procedures and practices appropriate to the nature of the information to protect the personal information may institute a civil action for any of the following:

(A) To recover damages in an amount not less than one hundred dollars (\$100) and not greater than seven hundred and fifty (\$750) per consumer per incident or actual damages, whichever is greater.

(B) Injunctive or declaratory relief.

(C) Any other relief the court deems proper.

(2) In assessing the amount of statutory damages, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(b) Actions pursuant to this section may be brought by a consumer if, prior to initiating any action against a business for statutory damages on an individual or class-wide basis, a consumer provides a business 30 days' written notice identifying the specific provisions of this title the consumer alleges have been or are being violated. In the event a cure is possible, if within the 30 days the business actually cures the noticed violation and provides the consumer an express written statement that the violations have been cured and that no further violations shall occur, no action for individual statutory damages or class-wide statutory damages may be initiated against the business. *The implementation and maintenance of reasonable security procedures and practices pursuant to Section 1798.81.5 following a breach does not constitute a cure with respect to that breach.* No notice shall be required prior to an individual consumer initiating an action solely for actual pecuniary damages suffered as a result of the alleged violations of this title. If a business continues to violate this title in breach of the express written statement provided to the consumer under this section, the consumer may initiate an action against the business to enforce the written statement and may pursue statutory damages for each breach of the express written statement, as well as any other

violation of the title that postdates the written statement.

(c) The cause of action established by this section shall apply only to violations as defined in subdivision (a) and shall not be based on violations of any other section of this title. Nothing in this title shall be interpreted to serve as the basis for a private right of action under any other law. This shall not be construed to relieve any party from any duties or obligations imposed under other law or the United States or California Constitution.

SEC. 17. Section 1798.155 of the Civil Code is amended to read:

1798.155. Administrative Enforcement

~~1798.155. (a) Any business or third party may seek the opinion of the Attorney General for guidance on how to comply with the provisions of this title.~~

~~(b) A business shall be in violation of this title if it fails to cure any alleged violation within 30 days after being notified of alleged noncompliance. Any business, service provider, contractor, or other person that violates this title shall be subject to an injunction and liable for an administrative fine of not more than two thousand five hundred dollars (\$2,500) for each violation or seven thousand five hundred dollars (\$7,500) for each intentional violation or violations involving the personal information of consumers whom the business, service provider, contractor, or other person has actual knowledge are under 16 years of age, as adjusted pursuant to paragraph (5) of subdivision (a) of Section 1798.185, in an administrative enforcement action brought by the California Privacy Protection Agency. a civil penalty of not more than two thousand five hundred dollars (\$2,500) for each violation or seven thousand five hundred dollars (\$7,500) for each intentional violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General. The civil penalties provided for in this section shall be exclusively assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General.~~

~~(c) (b) Any civil penalty administrative fine assessed for a violation of this title, and the proceeds of any settlement of an action brought pursuant to subdivision (b) (a), shall be deposited in the Consumer Privacy Fund, created within the General Fund pursuant to subdivision (a) of Section 1798.160 with the intent to fully offset any costs incurred by the state courts, and the Attorney General, and the California Privacy Protection Agency in connection with this title.~~

SEC. 18. Section 1798.160 of the Civil Code is amended to read:

1798.160. Consumer Privacy Fund

~~1798.160. (a) A special fund to be known as the "Consumer Privacy Fund" is hereby created within the General Fund in the State Treasury, and is available upon appropriation by the Legislature first to offset any costs incurred by the state courts in connection with actions brought to enforce this title, and any the costs incurred by the Attorney General in carrying out the Attorney General's duties under this title, and then for the purposes of establishing an investment fund in the State Treasury, with any earnings or interest from the fund to be deposited in the General Fund, and making grants to promote and protect consumer privacy, educate children in the area of online privacy, and fund cooperative programs with international law enforcement organizations to combat fraudulent activities with respect to consumer data breaches.~~

~~(b) Funds transferred to the Consumer Privacy Fund shall be used exclusively as follows:~~

~~(1) To offset any costs incurred by the state courts and the Attorney General in connection with this title.~~

~~(2) After satisfying the obligations under paragraph (1), the remaining funds shall be allocated each fiscal year as follows:~~

~~(A) Ninety-one percent shall be invested by the Treasurer in financial assets with the goal of maximizing long term yields consistent with a prudent level of risk. The principal shall not be subject to transfer or appropriation, provided that any interest and earnings shall be transferred on an annual basis to the General Fund for appropriation by the Legislature for General Fund purposes.~~

~~(B) Nine percent shall be made available to the California Privacy Protection Agency for the purposes of making grants in California, with 3 percent allocated to each of the following grant recipients:~~

~~(i) Nonprofit organizations to promote and protect consumer privacy.~~

~~(ii) Nonprofit organizations and public agencies, including school districts, to educate children in the area of online privacy.~~

~~(iii) State and local law enforcement agencies to fund cooperative programs with international law enforcement organizations to combat fraudulent activities with respect to consumer data breaches.~~

~~(c) These funds Funds in the Consumer Privacy Fund shall not be subject to appropriation or transfer by the Legislature for any other purpose. , unless the Director of Finance determines that the funds are in excess of the funding needed to fully offset the costs incurred by the state courts and the Attorney General in connection with this title, in which case the Legislature may appropriate excess funds for other purposes.~~

SEC. 19. Section 1798.175 of the Civil Code is amended to read:

1798.175. Conflicting Provisions

~~1798.175.~~ This title is intended to further the constitutional right of privacy and to supplement existing laws relating to consumers' personal information, including, but not limited to, Chapter 22 (commencing with Section 22575) of Division 8 of the Business and Professions Code and Title 1.81 (commencing with Section 1798.80). The provisions of this title are not limited to information collected electronically or over the Internet, but apply to the collection and sale of all personal information collected by a business from consumers. Wherever possible, law relating to consumers' personal information should be construed to harmonize with the provisions of this title, but in the event of a conflict between other laws and the provisions of this title, the provisions of the law that afford the greatest protection for the right of privacy for consumers shall control.

SEC. 20. Section 1798.180 of the Civil Code is amended to read:

1798.180. Preemption

~~1798.180.~~ This title is a matter of statewide concern and supersedes and preempts all rules, regulations, codes, ordinances, and other laws adopted by a city, county, city and county, municipality, or local agency regarding the collection and sale of consumers' personal information by a business.

SEC. 21. Section 1798.185 of the Civil Code is amended to read:

1798.185. Regulations

~~1798.185.~~ (a) On or before July 1, 2020, the Attorney General shall solicit broad public participation and adopt regulations to further the purposes of this title, including, but not limited to, the following areas:

(1) Updating *or adding as needed* ~~additional~~ categories of personal information to those enumerated in subdivision (c) of Section 1798.130 and subdivision ~~(e)~~ (v) of Section 1798.140, *and updating or adding categories of sensitive personal information to those enumerated in subdivision (ae) of Section 1798.140* in order to address changes in technology, data collection practices, obstacles to implementation, and privacy concerns.

(2) Updating as needed the ~~definition—definitions~~ of "deidentified" and ~~unique—identifiers~~ "unique identifier" to address changes in technology, data collection, obstacles to implementation, and privacy concerns, and ~~additional~~ *adding, modifying, or deleting* categories to the definition of designated methods for submitting requests to facilitate a consumer's ability to obtain information from a business pursuant to Section 1798.130. *The authority to update the definition of "deidentified" shall not apply to deidentification standards set forth in Section 164.514 of Title 45 of the Code of Federal*

Regulations, where such information previously was "protected health information" as defined in Section 160.103 of Title 45 of the Code of Federal Regulations.

(3) Establishing any exceptions necessary to comply with state or federal law, including, but not limited to, those relating to trade secrets and intellectual property rights, within one year of passage of this title and as needed thereafter, *with the intention that trade secrets should not be disclosed in response to a verifiable consumer request.*

(4) Establishing rules and procedures for the following:

(A) To facilitate and govern the submission of a request by a consumer to opt-out of the sale *or sharing* of personal information pursuant to Section 1798.120 *and to limit the use of a consumer's sensitive personal information pursuant to Section 1798.121 to ensure that consumers have the ability to exercise their choices without undue burden and to prevent business from engaging in deceptive or harassing conduct, including in retaliation against consumers for exercising their rights, while allowing businesses to inform consumers of the consequences of their decision to opt out of the sale or sharing of their personal information or to limit the use of their sensitive personal information.*

(B) To govern business compliance with a consumer's opt-out request.

(C) For the development and use of a recognizable and uniform opt-out logo or button by all businesses to promote consumer awareness of the opportunity to opt-out of the sale of personal information.

(5) Adjusting the monetary ~~threshold—thresholds~~, *in January of every odd-numbered year to reflect any increase in the Consumer Price Index*, in: subparagraph (A) of paragraph (1) of subdivision ~~(e)~~ (d) of Section 1798.140; *subparagraph (A) of paragraph (1) of subdivision (a) of Section 1798.150; subdivision (a) of Section 1798.155; Section 1798.199.25; and subdivision (a) of Section 1798.199.90* ~~in January of every odd-numbered year to reflect any increase in the Consumer Price Index.~~

(6) Establishing rules, procedures, and any exceptions necessary to ensure that the notices and information that businesses are required to provide pursuant to this title are provided in a manner that may be easily understood by the average consumer, are accessible to consumers with disabilities, and are available in the language primarily used to interact with the consumer, including establishing rules and guidelines regarding financial ~~incentives~~ *incentive offerings*, within one year of passage of this title and as needed thereafter.

(7) Establishing rules and procedures to further the purposes of Sections 1798.105, 1798.106, 1798.110, and 1798.115 and to facilitate a consumer's or the consumer's authorized agent's

ability to delete personal information, correct inaccurate personal information pursuant to Section 1798.106, or obtain information pursuant to Section 1798.130, with the goal of minimizing the administrative burden on consumers, taking into account available technology, security concerns, and the burden on the business, to govern a business's determination that a request for information received from a consumer is a verifiable consumer request, including treating a request submitted through a password-protected account maintained by the consumer with the business while the consumer is logged into the account as a verifiable consumer request and providing a mechanism for a consumer who does not maintain an account with the business to request information through the business's authentication of the consumer's identity, within one year of passage of this title and as needed thereafter.

(8) Establishing how often, and under what circumstances, a consumer may request a correction pursuant to Section 1798.106, including standards governing the following:

(A) How a business responds to a request for correction, including exceptions for requests to which a response is impossible or would involve disproportionate effort, and requests for correction of accurate information.

(B) How concerns regarding the accuracy of the information may be resolved.

(C) The steps a business may take to prevent fraud.

(D) If a business rejects a request to correct personal information collected and analyzed concerning a consumer's health, the right of a consumer to provide a written addendum to the business with respect to any item or statement regarding any such personal information that the consumer believes to be incomplete or incorrect. The addendum shall be limited to 250 words per alleged incomplete or incorrect item and shall clearly indicate in writing that the consumer requests the addendum to be made a part of the consumer's record.

(9) Establishing the standard to govern a business' determination, pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 1798.130, that providing information beyond the 12-month period in a response to a verifiable consumer request is impossible or would involve a disproportionate effort.

(10) Issuing regulations further defining and adding to the business purposes, including other notified purposes, for which businesses, service providers, and contractors may use consumers' personal information consistent with consumers' expectations, and further defining the business purposes for which service providers and contractors may combine consumers' personal information obtained from different sources,

except as provided for in paragraph (6) of subdivision (e) of Section 1798.140.

(11) Issuing regulations identifying those business purposes, including other notified purposes, for which service providers and contractors may use consumers' personal information received pursuant to a written contract with a business, for the service provider or contractor's own business purposes, with the goal of maximizing consumer privacy.

(12) Issuing regulations to further define "intentionally interacts," with the goal of maximizing consumer privacy.

(13) Issuing regulations to further define "precise geolocation," including if the size defined is not sufficient to protect consumer privacy in sparsely populated areas or when the personal information is used for normal operational purposes, including billing.

(14) Issuing regulations to define the term "specific pieces of information obtained from the consumer" with the goal of maximizing a consumer's right to access relevant personal information while minimizing the delivery of information to a consumer that would not be useful to the consumer, including system log information and other technical data. For delivery of the most sensitive personal information, the regulations may require a higher standard of authentication provided that the agency shall monitor the impact of the higher standard on the right of consumers to obtain their personal information to ensure that the requirements of verification do not result in the unreasonable denial of verifiable consumer requests.

(15) Issuing regulations requiring businesses whose processing of consumers' personal information presents significant risk to consumers' privacy or security, to:

(A) Perform a cybersecurity audit on an annual basis, including defining the scope of the audit and establishing a process to ensure that audits are thorough and independent. The factors to be considered in determining when processing may result in significant risk to the security of personal information shall include the size and complexity of the business and the nature and scope of processing activities.

(B) Submit to the California Privacy Protection Agency on a regular basis a risk assessment with respect to their processing of personal information, including whether the processing involves sensitive personal information, and identifying and weighing the benefits resulting from the processing to the business, the consumer, other stakeholders, and the public, against the potential risks to the rights of the consumer associated with that processing, with the goal of restricting or prohibiting the processing if the risks to privacy of the consumer outweigh the benefits

resulting from processing to the consumer, the business, other stakeholders, and the public. Nothing in this section shall require a business to divulge trade secrets.

(16) Issuing regulations governing access and opt-out rights with respect to businesses' use of automated decisionmaking technology, including profiling and requiring businesses' response to access requests to include meaningful information about the logic involved in those decisionmaking processes, as well as a description of the likely outcome of the process with respect to the consumer.

(17) Issuing regulations to further define a "law enforcement agency-approved investigation" for purposes of the exception in paragraph (2) of subdivision (a) of Section 1798.145.

(18) Issuing regulations to define the scope and process for the exercise of the agency's audit authority, to establish criteria for selection of persons to audit, and to protect consumers' personal information from disclosure to an auditor in the absence of a court order, warrant, or subpoena.

(19) (A) Issuing regulations to define the requirements and technical specifications for an opt-out preference signal sent by a platform, technology, or mechanism, to indicate a consumer's intent to opt out of the sale or sharing of the consumer's personal information and to limit the use or disclosure of the consumer's sensitive personal information. The requirements and specifications for the opt-out preference signal should be updated from time to time to reflect the means by which consumers interact with businesses, and should:

(i) Ensure that the manufacturer of a platform or browser or device that sends the opt-out preference signal cannot unfairly disadvantage another business.

(ii) Ensure that the opt-out preference signal is consumer-friendly, clearly described, and easy to use by an average consumer and does not require that the consumer provide additional information beyond what is necessary.

(iii) Clearly represent a consumer's intent and be free of defaults constraining or presupposing that intent.

(iv) Ensure that the opt-out preference signal does not conflict with other commonly used privacy settings or tools that consumers may employ.

(v) Provide a mechanism for the consumer to selectively consent to a business' sale of the consumer's personal information, or the use or disclosure of the consumer's sensitive personal information, without affecting the consumer's preferences with respect to other businesses or disabling the opt-out preference signal globally.

(vi) State that in the case of a page or setting view that the consumer accesses to set the opt-out

preference signal, the consumer should see up to three choices, including:

(I) Global opt out from sale and sharing of personal information, including a direction to limit the use of sensitive personal information.

(II) Choice to "Limit the Use of My Sensitive Personal Information."

(III) Choice titled "Do Not Sell/Do Not Share My Personal Information for Cross-Context Behavioral Advertising."

(B) Issuing regulations to establish technical specifications for an opt-out preference signal that allows the consumer, or the consumer's parent or guardian, to specify that the consumer is less than 13 years of age or at least 13 years of age and less than 16 years of age.

(C) Issuing regulations, with the goal of strengthening consumer privacy while considering the legitimate operational interests of businesses, to govern the use or disclosure of a consumer's sensitive personal information, notwithstanding the consumer's direction to limit the use or disclosure of the consumer's sensitive personal information, including:

(i) Determining any additional purposes for which a business may use or disclose a consumer's sensitive personal information.

(ii) Determining the scope of activities permitted under paragraph (8) of subdivision (e) of Section 1798.140, as authorized by subdivision (a) of Section 1798.121, to ensure that the activities do not involve health-related research.

(iii) Ensuring the functionality of the business' operations.

(iv) Ensuring that the exemption in subdivision (d) of Section 1798.121 for sensitive personal information applies to information that is collected or processed incidentally, or without the purpose of inferring characteristics about a consumer, while ensuring that businesses do not use the exemption for the purpose of evading consumers' rights to limit the use and disclosure of their sensitive personal information under Section 1798.121.

(20) Issuing regulations to govern how a business that has elected to comply with subdivision (b) of Section 1798.135 responds to the opt-out preference signal and provides consumers with the opportunity subsequently to consent to the sale or sharing of their personal information or the use and disclosure of their sensitive personal information for purposes in addition to those authorized by subdivision (a) of Section 1798.121. The regulations should:

(A) Strive to promote competition and consumer choice and be technology neutral.

(B) Ensure that the business does not respond to an opt-out preference signal by:

(i) Intentionally degrading the functionality of the consumer experience.

(ii) Charging the consumer a fee in response to the consumer's opt-out preferences.

(iii) Making any products or services not function properly or fully for the consumer, as compared to consumers who do not use the opt-out preference signal.

(iv) Attempting to coerce the consumer to opt in to the sale or sharing of the consumer's personal information, or the use or disclosure of the consumer's sensitive personal information, by stating or implying that the use of the opt-out preference signal will adversely affect the consumer as compared to consumers who do not use the opt-out preference signal, including stating or implying that the consumer will not be able to use the business' products or services or that those products or services may not function properly or fully.

(v) Displaying any notification or pop-up in response to the consumer's opt-out preference signal.

(C) Ensure that any link to a web page or its supporting content that allows the consumer to consent to opt in:

(i) Is not part of a popup, notice, banner, or other intrusive design that obscures any part of the web page the consumer intended to visit from full view or that interferes with or impedes in any way the consumer's experience visiting or browsing the web page or website the consumer intended to visit.

(ii) Does not require or imply that the consumer must click the link to receive full functionality of any products or services, including the website.

(iii) Does not make use of any dark patterns.

(iv) Applies only to the business with which the consumer intends to interact.

(D) Strive to curb coercive or deceptive practices in response to an opt-out preference signal but should not unduly restrict businesses that are trying in good faith to comply with Section 1798.135.

(21) Review existing Insurance Code provisions and regulations relating to consumer privacy, except those relating to insurance rates or pricing, to determine whether any provisions of the Insurance Code provide greater protection to consumers than the provisions of this title. Upon completing its review, the agency shall adopt a regulation that applies only the more protective provisions of this title to insurance companies. For the purpose of clarity, the Insurance Commissioner shall have jurisdiction over insurance rates and pricing.

(22) Harmonizing the regulations governing opt-out mechanisms, notices to consumers, and other operational mechanisms in this title to promote clarity and the functionality of this title for consumers.

(b) The Attorney General may adopt additional regulations as follows:

~~(1) To establish rules and procedures on how to process and comply with verifiable consumer requests for specific pieces of personal information relating to a household in order to address obstacles to implementation and privacy concerns.~~

~~(2) As necessary to further the purposes of this title.~~

(c) The Attorney General shall not bring an enforcement action under this title until six months after the publication of the final regulations issued pursuant to this section or July 1, 2020, whichever is sooner.

~~(d) Notwithstanding subdivision (a), the timeline for adopting final regulations required by the act adding this subdivision shall be July 1, 2022. Beginning the later of July 1, 2021, or six months after the agency provides notice to the Attorney General that it is prepared to begin rulemaking under this title, the authority assigned to the Attorney General to adopt regulations under this section shall be exercised by the California Privacy Protection Agency. Notwithstanding any other law, civil and administrative enforcement of the provisions of law added or amended by this act shall not commence until July 1, 2023, and shall only apply to violations occurring on or after that date. Enforcement of provisions of law contained in the California Consumer Privacy Act of 2018 amended by this act shall remain in effect and shall be enforceable until the same provisions of this act become enforceable.~~

SEC. 22. Section 1798.190 of the Civil Code is amended to read:

1798.190. *Anti-Avoidance*

~~1798.190. A court or the agency shall disregard the intermediate steps or transactions for purposes of effectuating the purposes of this title:~~

(a) If a series of steps or transactions were component parts of a single transaction intended from the beginning to be taken with the intention of avoiding the reach of this title, including the disclosure of information by a business to a third party in order to avoid the definition of sell; or share.

~~(b) If steps or transactions were taken to purposely avoid the definition of sell or share by eliminating any monetary or other valuable consideration, including by entering into contracts that do not include an exchange for monetary or other valuable consideration, but where a party is obtaining something of value or use a court shall disregard the intermediate steps or transactions for purposes of effectuating the purposes of this title.~~

SEC. 23. Section 1798.192 of the Civil Code is amended to read:

1798.192. *Waiver*

~~1798.192.~~ Any provision of a contract or agreement of any kind, *including a representative action waiver*, that purports to waive or limit in any way a consumer's rights under this title, including, but not limited to, any right to a remedy or means of enforcement, shall be deemed contrary to public policy and shall be void and unenforceable. This section shall not prevent a consumer from declining to request information from a business, declining to ~~opt-out~~ *opt out* of a business's sale of the consumer's personal information, or authorizing a business to sell *or share* the consumer's personal information after previously opting out.

SEC. 24. *Establishment of California Privacy Protection Agency.*

SEC. 24.1. Section 1798.199.10 is added to the Civil Code, to read:

1798.199.10. (a) *There is hereby established in state government the California Privacy Protection Agency, which is vested with full administrative power, authority, and jurisdiction to implement and enforce the California Consumer Privacy Act of 2018. The agency shall be governed by a five-member board, including the chairperson. The chairperson and one member of the board shall be appointed by the Governor. The Attorney General, Senate Rules Committee, and Speaker of the Assembly shall each appoint one member. These appointments should be made from among Californians with expertise in the areas of privacy, technology, and consumer rights.*

(b) *The initial appointments to the agency shall be made within 90 days of the effective date of the act adding this section.*

SEC. 24.2. Section 1798.199.15 is added to the Civil Code, to read:

1798.199.15. *Members of the agency board shall:*

(a) *Have qualifications, experience, and skills, in particular in the areas of privacy and technology, required to perform the duties of the agency and exercise its powers.*

(b) *Maintain the confidentiality of information which has come to their knowledge in the course of the performance of their tasks or exercise of their powers, except to the extent that disclosure is required by the Public Records Act.*

(c) *Remain free from external influence, whether direct or indirect, and shall neither seek nor take instructions from another.*

(d) *Refrain from any action incompatible with their duties and engaging in any incompatible occupation, whether gainful or not, during their term.*

(e) *Have the right of access to all information made available by the agency to the chairperson.*

(f) *Be precluded, for a period of one year after leaving office, from accepting employment with a business that was subject to an enforcement action or civil*

action under this title during the member's tenure or during the five-year period preceding the member's appointment.

(g) *Be precluded for a period of two years after leaving office from acting, for compensation, as an agent or attorney for, or otherwise representing, any other person in a matter pending before the agency if the purpose is to influence an action of the agency.*

SEC. 24.3. Section 1798.199.20 is added to the Civil Code, to read:

1798.199.20. *Members of the agency board, including the chairperson, shall serve at the pleasure of their appointing authority but shall serve for no longer than eight consecutive years.*

SEC. 24.4. Section 1798.199.25 is added to the Civil Code, to read:

1798.199.25. *For each day on which they engage in official duties, members of the agency board shall be compensated at the rate of one hundred dollars (\$100), adjusted biennially to reflect changes in the cost of living, and shall be reimbursed for expenses incurred in performance of their official duties.*

SEC. 24.5. Section 1798.199.30 is added to the Civil Code, to read:

1798.199.30. *The agency board shall appoint an executive director who shall act in accordance with agency policies and regulations and with applicable law. The agency shall appoint and discharge officers, counsel, and employees, consistent with applicable civil service laws, and shall fix the compensation of employees and prescribe their duties. The agency may contract for services that cannot be provided by its employees.*

SEC. 24.6. Section 1798.199.35 is added to the Civil Code, to read:

1798.199.35. *The agency board may delegate authority to the chairperson or the executive director to act in the name of the agency between meetings of the agency, except with respect to resolution of enforcement actions and rulemaking authority.*

SEC. 24.7. Section 1798.199.40 is added to the Civil Code, to read:

1798.199.40. *The agency shall perform the following functions:*

(a) *Administer, implement, and enforce through administrative actions this title.*

(b) *On and after the earlier of July 1, 2021, or within six months of the agency providing the Attorney General with notice that it is prepared to assume rulemaking responsibilities under this title, adopt, amend, and rescind regulations pursuant to Section 1798.185 to carry out the purposes and provisions of the California Consumer Privacy Act of 2018, including regulations specifying record keeping*

requirements for businesses to ensure compliance with this title.

(c) Through the implementation of this title, protect the fundamental privacy rights of natural persons with respect to the use of their personal information.

(d) Promote public awareness and understanding of the risks, rules, responsibilities, safeguards, and rights in relation to the collection, use, sale, and disclosure of personal information, including the rights of minors with respect to their own information, and provide a public report summarizing the risk assessments filed with the agency pursuant to paragraph (15) of subdivision (a) of Section 1798.185 while ensuring that data security is not compromised.

(e) Provide guidance to consumers regarding their rights under this title.

(f) Provide guidance to businesses regarding their duties and responsibilities under this title and appoint a Chief Privacy Auditor to conduct audits of businesses to ensure compliance with this title pursuant to regulations adopted pursuant to paragraph (18) of subdivision (a) of Section 1798.185.

(g) Provide technical assistance and advice to the Legislature, upon request, with respect to privacy-related legislation.

(h) Monitor relevant developments relating to the protection of personal information and in particular, the development of information and communication technologies and commercial practices.

(i) Cooperate with other agencies with jurisdiction over privacy laws and with data processing authorities in California, other states, territories, and countries to ensure consistent application of privacy protections.

(j) Establish a mechanism pursuant to which persons doing business in California that do not meet the definition of business set forth in paragraph (1), (2), or (3) of subdivision (d) of Section 1798.140 may voluntarily certify that they are in compliance with this title, as set forth in paragraph (4) of subdivision (d) of Section 1798.140, and make a list of those entities available to the public.

(k) Solicit, review, and approve applications for grants to the extent funds are available pursuant to paragraph (2) of subdivision (b) of Section 1798.160.

(l) Perform all other acts necessary or appropriate in the exercise of its power, authority, and jurisdiction and seek to balance the goals of strengthening consumer privacy while giving attention to the impact on businesses.

SEC. 24.8. Section 1798.199.45 is added to the Civil Code, to read:

1798.199.45. (a) Upon the sworn complaint of any person or on its own initiative, the agency may investigate possible violations of this title relating to any business, service provider, contractor, or person.

The agency may decide not to investigate a complaint or decide to provide a business with a time period to cure the alleged violation. In making a decision not to investigate or provide more time to cure, the agency may consider the following:

(1) Lack of intent to violate this title.

(2) Voluntary efforts undertaken by the business, service provider, contractor, or person to cure the alleged violation prior to being notified by the agency of the complaint.

(b) The agency shall notify in writing the person who made the complaint of the action, if any, the agency has taken or plans to take on the complaint, together with the reasons for that action or nonaction.

SEC. 24.9. Section 1798.199.50 is added to the Civil Code, to read:

1798.199.50. No finding of probable cause to believe this title has been violated shall be made by the agency unless, at least 30 days prior to the agency's consideration of the alleged violation, the business, service provider, contractor, or person alleged to have violated this title is notified of the violation by service of process or registered mail with return receipt requested, provided with a summary of the evidence, and informed of their right to be present in person and represented by counsel at any proceeding of the agency held for the purpose of considering whether probable cause exists for believing the person violated this title. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private unless the alleged violator files with the agency a written request that the proceeding be public.

SEC. 24.10. Section 1798.199.55 is added to the Civil Code, to read:

1798.199.55. (a) When the agency determines there is probable cause for believing this title has been violated, it shall hold a hearing to determine if a violation has or violations have occurred. Notice shall be given and the hearing conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, Government Code). The agency shall have all the powers granted by that chapter. If the agency determines on the basis of the hearing conducted pursuant to this subdivision that a violation or violations have occurred, it shall issue an order that may require the violator to do all or any of the following:

(1) Cease and desist violation of this title.

(2) Subject to Section 1798.155, pay an administrative fine of up to two thousand five hundred dollars (\$2,500) for each violation, or up to seven

thousand five hundred dollars (\$7,500) for each intentional violation and each violation involving the personal information of minor consumers to the Consumer Privacy Fund within the General Fund of the state. When the agency determines that no violation has occurred, it shall publish a declaration so stating.

(b) If two or more persons are responsible for any violation or violations, they shall be jointly and severally liable.

SEC. 24.11. Section 1798.199.60 is added to the Civil Code, to read:

1798.199.60. Whenever the agency rejects the decision of an administrative law judge made pursuant to Section 11517 of the Government Code, the agency shall state the reasons in writing for rejecting the decision.

SEC. 24.12. Section 1798.199.65 is added to the Civil Code, to read:

1798.199.65. The agency may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records, or other items material to the performance of the agency's duties or exercise of its powers, including, but not limited to, its power to audit a business' compliance with this title.

SEC. 24.13. Section 1798.199.70 is added to the Civil Code, to read:

1798.199.70. No administrative action brought pursuant to this title alleging a violation of any of the provisions of this title shall be commenced more than five years after the date on which the violation occurred.

(a) The service of the probable cause hearing notice, as required by Section 1798.199.50, upon the person alleged to have violated this title shall constitute the commencement of the administrative action.

(b) If the person alleged to have violated this title engages in the fraudulent concealment of the person's acts or identity, the five-year period shall be tolled for the period of the concealment. For purposes of this subdivision, "fraudulent concealment" means the person knows of material facts related to the person's duties under this title and knowingly conceals them in performing or omitting to perform those duties for the purpose of defrauding the public of information to which it is entitled under this title.

(c) If, upon being ordered by a superior court to produce any documents sought by a subpoena in any administrative proceeding under this title, the person alleged to have violated this title fails to produce documents in response to the order by the date ordered to comply therewith, the five-year period shall be tolled for the period of the delay from the date of

filing of the motion to compel until the date the documents are produced.

SEC. 24.14. Section 1798.199.75 is added to the Civil Code, to read:

1798.199.75. (a) In addition to any other available remedies, the agency may bring a civil action and obtain a judgment in superior court for the purpose of collecting any unpaid administrative fines imposed pursuant to this title after exhaustion of judicial review of the agency's action. The action may be filed as a small claims, limited civil, or unlimited civil case depending on the jurisdictional amount. The venue for this action shall be in the county where the administrative fines were imposed by the agency. In order to obtain a judgment in a proceeding under this section, the agency shall show, following the procedures and rules of evidence as applied in ordinary civil actions, all of the following:

(1) That the administrative fines were imposed following the procedures set forth in this title and implementing regulations.

(2) That the defendant or defendants in the action were notified, by actual or constructive notice, of the imposition of the administrative fines.

(3) That a demand for payment has been made by the agency and full payment has not been received.

(b) A civil action brought pursuant to subdivision (a) shall be commenced within four years after the date on which the administrative fines were imposed.

SEC. 24.15. Section 1798.199.80 is added to the Civil Code, to read:

1798.199.80. (a) If the time for judicial review of a final agency order or decision has lapsed, or if all means of judicial review of the order or decision have been exhausted, the agency may apply to the clerk of the court for a judgment to collect the administrative fines imposed by the order or decision, or the order as modified in accordance with a decision on judicial review.

(b) The application, which shall include a certified copy of the order or decision, or the order as modified in accordance with a decision on judicial review, and proof of service of the order or decision, constitutes a sufficient showing to warrant issuance of the judgment to collect the administrative fines. The clerk of the court shall enter the judgment immediately in conformity with the application.

(c) An application made pursuant to this section shall be made to the clerk of the superior court in the county where the administrative fines were imposed by the agency.

(d) A judgment entered in accordance with this section has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action and may be enforced in the

same manner as any other judgment of the court in which it is entered.

(e) The agency may bring an application pursuant to this section only within four years after the date on which all means of judicial review of the order or decision have been exhausted.

(f) The remedy available under this section is in addition to those available under any other law.

SEC. 24.16. Section 1798.199.85 is added to the Civil Code, to read:

1798.199.85. Any decision of the agency with respect to a complaint or administrative fine shall be subject to judicial review in an action brought by an interested party to the complaint or administrative fine and shall be subject to an abuse of discretion standard.

SEC. 24.17. Section 1798.199.90 is added to the Civil Code, to read:

1798.199.90. (a) Any business, service provider, contractor, or other person that violates this title shall be subject to an injunction and liable for a civil penalty of not more than two thousand five hundred dollars (\$2,500) for each violation or seven thousand five hundred dollars (\$7,500) for each intentional violation and each violation involving the personal information of minor consumers, as adjusted pursuant to paragraph (5) of subdivision (a) of Section 1798.185, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General. The court may consider the good faith cooperation of the business, service provider, contractor, or other person in determining the amount of the civil penalty.

(b) Any civil penalty recovered by an action brought by the Attorney General for a violation of this title, and the proceeds of any settlement of any said action, shall be deposited in the Consumer Privacy Fund.

(c) The agency shall, upon request by the Attorney General, stay an administrative action or investigation under this title to permit the Attorney General to proceed with an investigation or civil action and shall not pursue an administrative action or investigation, unless the Attorney General subsequently determines not to pursue an investigation or civil action. The agency may not limit the authority of the Attorney General to enforce this title.

(d) No civil action may be filed by the Attorney General under this section for any violation of this title after the agency has issued a decision pursuant to Section 1798.199.85 or an order pursuant to Section 1798.199.55 against that person for the same violation.

(e) This section shall not affect the private right of action provided for in Section 1798.150.

SEC. 24.18. Section 1798.199.95 is added to the Civil Code, to read:

1798.199.95. (a) There is hereby appropriated from the General Fund of the state to the agency the sum of five million dollars (\$5,000,000) during the fiscal year 2020–2021, and the sum of ten million dollars (\$10,000,000) adjusted for cost-of-living changes, during each fiscal year thereafter, for expenditure to support the operations of the agency pursuant to this title. The expenditure of funds under this appropriation shall be subject to the normal administrative review given to other state appropriations. The Legislature shall appropriate those additional amounts to the commission and other agencies as may be necessary to carry out the provisions of this title.

(b) The Department of Finance, in preparing the state budget and the Budget Act bill submitted to the Legislature, shall include an item for the support of this title that shall indicate all of the following:

(1) The amounts to be appropriated to other agencies to carry out their duties under this title, which amounts shall be in augmentation of the support items of those agencies.

(2) The additional amounts required to be appropriated by the Legislature to the agency to carry out the purposes of this title, as provided for in this section.

(3) In parentheses, for informational purposes, the continuing appropriation during each fiscal year of ten million dollars (\$10,000,000), adjusted for cost-of-living changes made pursuant to this section.

(c) The Attorney General shall provide staff support to the agency until the agency has hired its own staff. The Attorney General shall be reimbursed by the agency for these services.

SEC. 24.19. Section 1798.199.100 is added to the Civil Code, to read:

1798.199.100. The agency and any court, as applicable, shall consider the good faith cooperation of the business, service provider, contractor, or other person in determining the amount of any administrative fine or civil penalty for a violation of this title. A business shall not be required by the agency, a court, or otherwise to pay both an administrative fine and a civil penalty for the same violation.

SEC. 25. Amendment.

(a) The provisions of this act may be amended after its approval by the voters by a statute that is passed by a vote of a majority of the members of each house of the Legislature and signed by the Governor, provided that those amendments are consistent with and further the purpose and intent of this act as set forth in Section 3, including amendments to the exemptions in Section 1798.145 if the laws upon which the exemptions are based are amended to enhance privacy and are consistent with and further

the purposes and intent of this act and amendments to address a decision of a state or federal court holding that a provision of the act is unconstitutional or preempted by federal law, provided that any further amendments to legislation that addresses a court holding shall be subject to this subdivision.

(b) Notwithstanding Section 1798.199.25, the Legislature may authorize additional compensation for members of the California Consumer Privacy Agency, if it determines that it is necessary to carry out the agency's functions, by a statute that is passed by a vote of a majority of the members of each house of the Legislature and signed by the Governor.

(c) This section applies to all statutes amended or reenacted as part of this act, and all provisions of those statutes, regardless of whether this act makes any substantive change thereto.

(d) The provisions of this act shall prevail over any conflicting legislation enacted after January 1, 2020. Any amendments to this act or any legislation that conflicts with any provision of this act shall be null and void upon passage of this act by the voters, regardless of the code in which it appears. Legislation shall be considered "conflicting" for purposes of this subdivision, unless the legislation is consistent with and furthers the purpose and intent of this act as set forth in Section 3.

SEC. 26. Severability.

If any provision of this measure, or part of this measure, or the application of any provision or part to any person or circumstances, is for any reason held to be invalid, the remaining provisions, or applications of provisions, shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable. If a court were to find in a final, unreviewable judgment that the exclusion of one or more entities or activities from the applicability of the act renders the act unconstitutional, those exceptions should be severed and the act should be made applicable to the entities or activities formerly exempt from the act. It is the intent of the voters that this act would have been enacted regardless of whether any invalid provision had been included or any invalid application had been made.

SEC. 27. Conflicting Initiatives.

(a) In the event that this measure and another measure addressing consumer privacy shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by the voters but superseded by law by any other conflicting measure

approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

SEC. 28. Standing.

Notwithstanding any other provision of law, if the state or any of its officials fail to defend the constitutionality of this act, following its approval by the voters, any other government agency of this state shall have the authority to intervene in any court action challenging the constitutionality of this act for the purpose of defending its constitutionality, whether that action is in state or federal trial court, on appeal, or on discretionary review by the Supreme Court of California or the Supreme Court of the United States. The reasonable fees and costs of defending the action shall be a charge on funds appropriated to the Department of Justice, which shall be satisfied promptly.

SEC. 29. Construction.

This act shall be liberally construed to effectuate its purposes.

SEC. 30. Savings Clause.

This act is intended to supplement federal and state law, where permissible, but shall not apply if that application is preempted by, or in conflict with, federal law, or the California Constitution. The provisions of the act relating to children under 16 years of age shall only apply to the extent not in conflict with the federal Children's Online Privacy Protection Act.

SEC. 31. Effective and Operative Dates.

(a) This act shall become effective as provided in subdivision (a) of Section 10 of Article II of the California Constitution. Except as provided in subdivision (b), this act shall become operative January 1, 2023, and with the exception of the right of access, shall only apply to personal information collected by a business on or after January 1, 2022.

(b) Subdivisions (m) and (n) of Section 1798.145, Sections 1798.160, 1798.185, Sections 1798.199.10 through 1798.199.40, inclusive, and Section 1798.199.95 shall become operative on the effective date of the act.

(c) The provisions of the California Consumer Privacy Act of 2018, amended by this act, shall remain in full force and effect and shall be enforceable until the same provisions of this act become operative and enforceable.

PROPOSITION 25

This law proposed by Senate Bill 10 of the 2017–2018 Regular Session (Chapter 244, Statutes of 2018) is submitted to the people as a referendum in

accordance with the provisions of Section 9 of Article II of the California Constitution.

This proposed law amends a section of the Government Code and adds sections to the Penal Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout~~ type and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. It is the intent of the Legislature by enacting this measure to permit preventive detention of pretrial defendants only in a manner that is consistent with the United States Constitution, as interpreted by the United States Supreme Court, and only to the extent permitted by the California Constitution as interpreted by the California courts of review.

SEC. 2. Section 27771 of the Government Code is amended to read:

27771. (a) The chief probation officer shall perform the duties and discharge the obligations imposed on the office by law or by order of the superior court, including the following:

(1) Community supervision of offenders subject to the jurisdiction of the juvenile court pursuant to Section 602 or 1766 of the Welfare and Institutions Code.

(2) Operation of juvenile halls pursuant to Section 852 of the Welfare and Institutions Code.

(3) Operation of juvenile camps and ranches established under Section 880 of the Welfare and Institutions Code.

(4) Community supervision of individuals subject to probation pursuant to conditions imposed under Section 1203 of the Penal Code.

(5) Community supervision of individuals subject to mandatory supervision pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170 of the Penal Code.

(6) Community supervision of individuals subject to postrelease community supervision pursuant to Section 3451 of the Penal Code.

(7) Administration of community-based corrections programming, including, but not limited to, programs authorized by Chapter 3 (commencing with Section 1228) of Title 8 of Part 2 of the Penal Code.

(8) Serving as chair of the Community Corrections Partnership pursuant to Section 1230 of the Penal Code.

(9) Making recommendations to the court, including, but not limited to, ~~pre-sentence~~ *presentence* investigative reports pursuant to Sections 1203.7 and 1203.10 of the Penal Code, or reports prepared pursuant to Section 1320.15 of the Penal Code.

(b) The chief probation officer may perform other duties that are consistent with those enumerated in subdivision (a) and may accept appointment to the Board of State and Community Corrections and collect the per diem authorized by Section 6025.1 of the Penal Code.

SEC. 3. Section 1320.6 is added to the Penal Code, to read:

1320.6. This chapter shall remain in effect only until October 1, 2019, and as of that date is repealed.

SEC. 4. Chapter 1.5 (commencing with Section 1320.7) is added to Title 10 of Part 2 of the Penal Code, to read:

CHAPTER 1.5. PRETRIAL CUSTODY STATUS

Article 1. Definitions

1320.7. As used in this chapter, the following terms have the following meanings:

(a) "The court" as used in this chapter includes "subordinate judicial officers," if authorized by the particular superior court, as authorized in Section 22 of Article VI of the California Constitution and specified in Rule 10.703 of the California Rules of Court.

(b) "High risk" means that an arrested person, after determination of the person's risk following an investigation by Pretrial Assessment Services, including the use of a validated risk assessment tool, is categorized as having a significant level of risk of failure to appear in court as required or risk to public safety due to the commission of a new criminal offense while released on the current criminal offense.

(c) "Low risk" means that an arrested person, after determination of the person's risk following an investigation by Pretrial Assessment Services, including the use of a validated risk assessment tool, is categorized as having a minimal level of risk of failure to appear in court as required or risk to public safety due to the commission of a new criminal offense while released on the current criminal offense.

(d) "Medium risk" means that an arrested person, after determination of the person's risk following an investigation by Pretrial Assessment Services, including the use of a validated risk assessment tool, is categorized as having a moderate level of risk of failure to appear in court as required or risk to public safety due to the commission of a new criminal offense while released on the current criminal offense.

(e) "Own recognizance release" means the pretrial release of an arrested person who promises in writing to appear in court as required, and without supervision.

(f) "Pretrial risk assessment" means an assessment conducted by Pretrial Assessment Services with the use of a validated risk assessment tool, designed to provide information about the risk of a person's failure

to appear in court as required or the risk to public safety due to the commission of a new criminal offense if the person is released before adjudication of his or her current criminal offense.

(g) “Pretrial Assessment Services” means an entity, division, or program that is assigned the responsibility, pursuant to Section 1320.26, to assess the risk level of persons charged with the commission of a crime, report the results of the risk determination to the court, and make recommendations for conditions of release of individuals pending adjudication of their criminal case, and as directed under statute or rule of court, implement risk-based determinations regarding release and detention. The entity, division, or program, at the option of the particular superior court, may be employees of the court, or employees of a public entity contracting with the court for those services as provided in Section 1320.26, and may include an entity, division, or program from an adjoining county or one that provides services as a member of a regional consortium. In all circumstances, persons acting on behalf of the entity, division, or program shall be officers of the court. “Pretrial Assessment Services” does not include supervision of persons released under this chapter.

(h) “Risk” refers to the likelihood that a person will not appear in court as required or the likelihood that a person will commit a new crime if the person is released before adjudication of his or her current criminal offense.

(i) “Risk score” refers to a descriptive evaluation of a person’s risk of failing to appear in court as required or the risk to public safety due to the commission of a new criminal offense if the person is released before adjudication of his or her current criminal offense, as a result of conducting an assessment with a validated risk assessment tool and may include a numerical value or terms such as “high,” “medium,” or “low” risk.

(j) “Supervised own recognizance release” means the pretrial release of an arrested person who promises in writing, but without posting money or a secured bond, to appear in court as required, and upon whom the court or Pretrial Assessment Services imposes specified conditions of release.

(k) “Validated risk assessment tool” means a risk assessment instrument, selected and approved by the court, in consultation with Pretrial Assessment Services or another entity providing pretrial risk assessments, from the list of approved pretrial risk assessment tools maintained by the Judicial Council. The assessment tools shall be demonstrated by scientific research to be accurate and reliable in assessing the risk of a person failing to appear in court as required or the risk to public safety due to the commission of a new criminal offense if the person is released before adjudication of his or her current criminal offense and minimize bias.

(l) “Witness” means any person who has testified or is expected to testify, or who, by reason of having relevant information, is subject to call or likely to be called as a witness in an action or proceeding for the current offense, whether or not any action or proceeding has yet been commenced, and whether or not the person is a witness for the defense or prosecution.

Article 2. Book and Release

1320.8. A person arrested or detained for a misdemeanor, other than a misdemeanor listed in subdivision (e) of Section 1320.10, may be booked and released without being taken into custody or, if taken into custody, shall be released from custody without a risk assessment by Pretrial Assessment Services within 12 hours of booking. This section shall apply to any person who has been arrested for a misdemeanor other than those offenses or factors listed in subdivision (e) of Section 1320.10, whether arrested with or without a warrant.

Article 3. Pretrial Assessment Services Investigation

1320.9. (a) Prior to arraignment, or prior to prearraignment review for those persons eligible for review, Pretrial Assessment Services shall obtain all of the following information regarding each detained person, other than those persons booked and released under Section 1320.8:

(1) The results of a risk assessment using a validated risk assessment instrument, including the risk score or risk level.

(2) The criminal charge for which the person was arrested and the criminal history of the person, including the person’s history of failure to appear in court within the past three years.

(3) Any supplemental information reasonably available that directly addresses the arrested person’s risk to public safety or risk of failure to appear in court as required.

(b) The district attorney shall make a reasonable effort to contact the victim for comment on the person’s custody status.

(c) Prior to prearraignment review pursuant to subdivision (a) or (b) of Section 1320.10 or Section 1320.13, or prior to arraignment, Pretrial Assessment Services shall prepare a report containing information obtained in accordance with subdivisions (a) and (b), and any recommendations for conditions of the person’s release. Options for conditions of release shall be established by the Judicial Council and set forth in the California Rules of Court. A copy of the report shall be served on the court and counsel.

(d) The report described in subdivision (c), including the results of a risk assessment using a validated risk assessment instrument, shall not be used for any purpose other than that provided for in this chapter.

Article 4. Release by Pretrial Assessment Services

1320.10. (a) Pretrial Assessment Services shall conduct a prearrest review of the facts and circumstances relevant to the arrested person's custody status, and shall consider any relevant and available information provided by law enforcement, the arrested person, any victim, and the prosecution or defense.

(b) Pretrial Assessment Services, using the information obtained pursuant to this section and Section 1320.9, and having assessed a person as having a low risk to public safety and low risk of failure to appear in court, shall release a low-risk person on his or her own recognizance, prior to arraignment, without review by the court, and with the least restrictive nonmonetary condition or combination of conditions that will reasonably assure public safety and the person's return to court. This subdivision does not apply to a person booked and released under Section 1320.8 or a person who is ineligible for consideration for release prior to arraignment as set forth in subdivision (e).

(c) Pretrial Assessment Services shall order the release or detention of medium-risk persons in accordance with the review and release standards set forth in the local rule of court authorized under Section 1320.11. A person released pursuant to the local rule of court shall be released on his or her own recognizance or on supervised own recognizance release, prior to arraignment, without review by the court, and with the least restrictive nonmonetary condition or combination of conditions that will reasonably assure public safety and the person's return to court. This subdivision shall not apply to a person booked and released under Section 1320.8 or a person ineligible for consideration prior to arraignment pursuant to subdivision (e) of this section. Pursuant to Section 1320.13, courts may conduct prearrest reviews and make release decisions and may authorize subordinate judicial officers to conduct prearrest reviews and make release decisions authorized by this chapter.

(d) A person shall not be required to pay for any nonmonetary condition or combination of conditions imposed pursuant to this section.

(e) Notwithstanding subdivisions (a) and (b), Pretrial Assessment Services shall not release:

(1) A person who has been assessed in the current case by Pretrial Assessment Services using a validated risk assessment tool pursuant to Section 1320.9 and is assessed as high risk.

(2) A person arrested for an offense listed in paragraph (2) or (3) of subdivision (d) of Section 290.

(3) A person arrested for any of the following misdemeanor offenses:

(A) A violation of Section 273.5.

(B) A violation of paragraph (1) of subdivision (e) of Section 243.

(C) A violation of Section 273.6 if the detained person is alleged to have made threats to kill or harm, engaged in violence against, or gone to the residence or the workplace of, the protected party.

(D) A violation of Section 646.9.

(4) A person arrested for a felony offense that includes, as an element of the crime for which the person was arrested, physical violence to another person, the threat of such violence, or the likelihood of great bodily injury, or a felony offense in which the person is alleged to have been personally armed with or personally used a deadly weapon or firearm in the commission of the crime, or alleged to have personally inflicted great bodily injury in the commission of the crime.

(5) A person arrested for a third offense within the past 10 years of driving under the influence of alcohol or drugs or any combination thereof, or for an offense of driving under the influence of alcohol or drugs with injury to another, or for an offense of driving with a blood alcohol level of .20 or above.

(6) A person arrested for a violation of any type of restraining order within the past five years.

(7) A person who has three or more prior warrants for failure to appear within the previous 12 months.

(8) A person who, at the time of arrest, was pending trial or pending sentencing for a misdemeanor or a felony.

(9) A person who, at the time of arrest, was on any form of postconviction supervision other than informal probation or court supervision.

(10) A person who has intimidated, dissuaded, or threatened retaliation against a witness or victim of the current crime.

(11) A person who has violated a condition of pretrial release within the past five years.

(12) A person who has been convicted of a serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, within the past five years.

(13) A person arrested with or without a warrant for a serious felony, as defined in subdivision (c) of Section 1192.7, or a "violent felony," as defined in subdivision (c) of Section 667.5.

(f) Review of the person's custody status and release pursuant to subdivision (b) or (c) shall occur without unnecessary delay, and no later than 24 hours of the person's booking. The 24-hour period may be extended for good cause, but shall not exceed an additional 12 hours.

(g) A person shall not be released on his or her own recognizance in accordance with subdivision (b) or (c) until the person signs a release agreement that includes, at a minimum, all of the following from the person:

- (1) A promise to appear at all times and places, as ordered by the court.
 - (2) A promise not to depart this state without the permission of the court.
 - (3) Agreement to waive extradition if the person fails to appear as required and is apprehended outside of the State of California.
 - (4) Acknowledgment that he or she has been informed of the consequences and penalties applicable to violation of these conditions of release.
 - (5) Agreement to obey all laws and orders of the court.
- (h) Persons not released pursuant to this section shall be detained until arraignment unless the court provides prearrest review pursuant to Section 1320.13.

Article 5. Prearrest Review by Pretrial Assessment Services or the Court

1320.11. (a) A superior court, in consultation with Pretrial Assessment Services and other stakeholders, shall adopt a local rule of court consistent with the California Rules of Court adopted by the Judicial Council, as described in subdivision (a) of Section 1320.25, that sets forth review and release standards for Pretrial Assessment Services for persons assessed as medium risk and eligible for prearrest release on own recognizance or supervised own recognizance. The local rule of court shall provide for the release or detention of medium-risk defendants, support an effective and efficient pretrial release or detention system that protects public safety and respects the due process rights of defendants. The local rule shall provide Pretrial Assessment Services with authority to detain or release on own recognizance or supervised own recognizance defendants assessed as medium risk, consistent with the standards for release or detention set forth in the rule. The local rule may further expand the list of offenses and factors for which prearrest release of persons assessed as medium risk is not permitted but shall not provide for the exclusion of release of all medium-risk defendants by Pretrial Assessment Services. The authority of the local rule of court shall be limited to determinations made pursuant to subdivision (c) of Section 1320.10. On an annual basis, superior courts shall consider the impact of the rule on public safety, the due process rights of defendants, and the preceding year's implementation of the rule.

(b) Pursuant to subdivision (d) of Rule 10.613 of the California Rules of Court, the court shall file with the Judicial Council an electronic copy of the rule and

amendments to the rule adopted pursuant to this section in a format authorized by the Judicial Council.

1320.13. (a) The court may conduct prearrest reviews, make release decisions, and may authorize subordinate judicial officers, as defined in Rule 10.703 of the California Rules of Court, to conduct prearrest reviews and make release decisions authorized by this chapter.

(b) The authority for court prearrest review and release granted by this section shall not apply to the following persons:

- (1) Persons assessed as high risk.
- (2) Persons charged with a serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5.
- (3) Persons who, at the time of arrest, were pending trial or sentencing in a felony matter.

(c) When making a prearrest release or detention determination and ordering conditions of release, the information obtained under Section 1320.9 and any recommendations and options for conditions of release shall be considered, with significant weight given to the recommendations and assessment of Pretrial Assessment Services.

(d) The court shall consider any relevant and available information provided by law enforcement, the arrested person, any victim, and the prosecution or defense before making a pretrial release or detention determination.

(e) (1) If the court finds the person appropriate for prearrest release, the arrested person shall be released on the person's own recognizance, or on supervised own recognizance, with the least restrictive nonmonetary condition or combination of conditions that will reasonably assure public safety and the arrested person's appearance in court as required.

(2) A person shall not be required to pay for any nonmonetary condition or combination of conditions imposed pursuant to this subdivision.

(f) A person released on his or her own recognizance shall sign a release agreement that includes, at a minimum, all of the following from the person:

- (1) A promise to appear at all times and places, as ordered by the court.
- (2) A promise not to depart this state without the permission of the court.
- (3) Agreement to waive extradition if the person fails to appear as required and is apprehended outside of the State of California.
- (4) Acknowledgment that he or she has been informed of the consequences and penalties applicable to violation of these conditions of release.
- (5) Agreement to obey all laws and orders of the court.

(g) Options for conditions of release shall be established by the Judicial Council and set forth in the California Rules of Court.

(h) The court may decline to release a person pending arraignment if there is a substantial likelihood that no condition or combination of conditions of pretrial supervision will reasonably assure public safety or the appearance of the person as required.

(i) There shall be a presumption that no condition or combination of conditions of pretrial supervision will reasonably assure the safety of any other person and the community pending arraignment if it is shown that any of the following apply:

(1) The crime for which the person was arrested was committed with violence against a person, threatened violence or the likelihood of serious bodily injury, or one in which the person committing the offense was personally armed with or personally used a deadly weapon or firearm in the commission of the crime, or personally inflicted great bodily injury in the commission of the crime.

(2) At the time of arrest, the person was on any form of postconviction supervision, other than court supervision or informal probation.

(3) The arrested person intimidated, dissuaded, or threatened retaliation against a witness or victim of the current crime.

(4) The person is currently on pretrial release and has violated a condition of release.

1320.14. For good cause shown, the court may, at any time by its own motion, or upon ex parte application by the arrested person, the prosecution, or Pretrial Assessment Services, modify the conditions of release, with 24 hours' notice, unless time and circumstances do not permit notice within 24 hours.

Article 6. Release or Detention Determination at Arraignment

1320.15. At or prior to the defendant's arraignment, Pretrial Assessment Services shall, if the defendant was not released pursuant to Section 1320.8, submit all of the following information for consideration by the court:

(a) The results of a risk assessment, including the risk score or risk level, or both, obtained using a validated risk assessment instrument.

(b) The criminal charge for which the person was arrested and the criminal history of the person, including the person's history of failure to appear in court within the past three years.

(c) Any supplemental information reasonably available that directly addresses the defendant's risk to public safety or risk of failure to appear in court as required.

(d) Recommendations to the court for conditions of release to impose upon a released defendant. Options for conditions of release shall be established by the

Judicial Council and set forth in the California Rules of Court.

1320.16. (a) The victim of the crime for which the defendant was arrested shall be given notice of the arraignment by the prosecution and, if requested, any other hearing at which the custody status of the defendant will be determined. If requested by the victim, the victim shall be given a reasonable opportunity to be heard on the matter of the defendant's custody status.

(b) The prosecution shall make a reasonable effort to contact the victim for comment on the defendant's custody status.

(c) In instances where a victim cannot or does not wish to appear at the arraignment, the prosecution shall submit any of the victim's comments on the defendant's custody status in writing to the court.

(d) The appearance or nonappearance of the victim and any comments provided by the victim shall be included in the record.

(e) If requested by either party, the court may review and modify the conditions of the defendant's release at arraignment.

1320.17. At arraignment, the court shall order a defendant released on his or her own recognizance or supervised own recognizance with the least restrictive nonmonetary condition or combination of conditions that will reasonably assure public safety and the defendant's return to court unless the prosecution files a motion for preventive detention in accordance with Section 1320.18.

1320.18. (a) At the defendant's arraignment, or at any other time during the criminal proceedings, the prosecution may file a motion seeking detention of the defendant pending a trial, based on any of the following circumstances:

(1) The crime for which the person was arrested was committed with violence against a person, threatened violence, or the likelihood of serious bodily injury, or was one in which the person was personally armed with or personally used a deadly weapon or firearm in the commission of the crime, or was one in which he or she personally inflicted great bodily injury in the commission of the crime.

(2) At the time of arrest, the defendant was on any form of postconviction supervision other than informal probation or court supervision.

(3) At the time of arrest, the defendant was subject to a pending trial or sentencing on a felony matter.

(4) The defendant intimidated or threatened retaliation against a witness or victim of the current crime.

(5) There is substantial reason to believe that no nonmonetary condition or combination of conditions of pretrial supervision will reasonably assure

protection of the public or a victim, or the appearance of the defendant in court as required.

(b) The court shall hold a preventive detention hearing as set forth in Section 1320.19.

(c) Upon the filing of a motion for preventive detention, the court shall make a determination regarding release or detention of the defendant pending the preventive detention hearing. When making the release or detention determination and ordering conditions of release pending the preventive detention hearing, the court shall consider the information provided by Pretrial Assessment Services, including recommendations on conditions of release and shall give significant weight to recommendations and assessment of Pretrial Assessment Services.

(d) If the court determines there is a substantial likelihood that no nonmonetary condition or combination of conditions of pretrial supervision will reasonably assure the appearance of the defendant at the preventive detention hearing or reasonably assure public safety prior to the preventive detention hearing, the court may detain the defendant pending a preventive detention hearing, and shall state the reasons for detention on the record.

(e) (1) If the court determines there is not a sufficient basis for detaining the defendant pending the preventive detention hearing, the court shall release the defendant on his or her own recognizance or on supervised own recognizance and impose the least restrictive nonmonetary condition or combination of conditions of pretrial release to reasonably assure public safety and the appearance of the defendant in court as required.

(2) A person shall not be required to pay for any nonmonetary condition or combination of conditions imposed pursuant to this subdivision.

Article 7. Preventive Detention Hearing

1320.19. (a) If the defendant is detained in custody, the preventive detention hearing shall be held no later than three court days after the motion for preventive detention is filed. If the defendant is not detained in custody, the preventive detention hearing shall be held no later than three court days after the defendant is brought into custody as a result of a warrant issued in accordance with subdivision (c). If the defendant is not in custody at the time of the request for a preventive detention hearing and the court does not issue a warrant in connection with the request for a hearing, the preventive detention hearing shall be held within five court days of the request for the hearing. By stipulation of counsel and with agreement of the court, the preventive detention hearing may be held in conjunction with the arraignment, or within three days after arraignment.

(b) For good cause, the defense or the prosecution may seek a continuance of the preventive detention hearing. If a request for a continuance is granted, the

continuance may not exceed three court days unless stipulated by the parties.

(c) The hearing shall be completed at one session, unless the defendant personally waives his or her right to a continuous preventive detention hearing. If the defendant is out of custody at the time the preventive detention hearing is requested, the court, upon the filing of an application for a warrant in conjunction with the motion for preventive detention, may issue a warrant requiring the defendant's placement in custody pending the completion of the preventive detention hearing.

(d) The defendant shall have the right to be represented by counsel at the hearing. If financially unable to obtain representation, the defendant has a right to have counsel appointed. The defendant has the right to be heard at the preventive detention hearing.

(e) Upon request of the victim of the crime, the victim shall be given notice by the prosecution of the preventive detention hearing. If requested, the victim shall be given a reasonable opportunity to be heard on the matter of the defendant's custody status.

(f) The prosecution shall make a reasonable effort to contact the victim for comment on the defendant's custody status. In instances where a victim cannot or does not wish to appear at the preventive detention hearing, the prosecution shall submit the victim's comments, if any, on the defendant's custody status in writing to the court and counsel.

(g) The appearance or nonappearance of a victim, and comments provided by a victim, shall be included in the record.

1320.20. (a) There shall be a rebuttable presumption that no condition or combination of conditions of pretrial supervision will reasonably assure public safety if the court finds probable cause to believe either of the following:

(1) The current crime is a violent felony as defined in subdivision (c) of Section 667.5, or was a felony offense committed with violence against a person, threatened violence, or with a likelihood of serious bodily injury, or one in which the defendant was personally armed with or personally used a deadly weapon or firearm in the commission of the crime, or was one in which he or she personally inflicted great bodily injury in the commission of the crime; or

(2) The defendant is assessed as "high risk" to the safety of the public or a victim and any of the following:

(A) The defendant was convicted of a serious felony as defined in subdivision (c) of Section 1192.7 or a violent felony as defined in subdivision (c) of Section 667.5, within the past 5 years.

(B) The defendant committed the current crime while pending sentencing for a crime described in paragraph (1) of subdivision (a).

(C) The defendant has intimidated, dissuaded, or threatened retaliation against a witness or victim of the current crime.

(D) At the time of arrest, the defendant was on any form of postconviction supervision other than informal probation or court supervision.

(b) The prosecution shall establish at the preventive detention hearing that there is probable cause to believe the defendant committed the charged crime or crimes in cases where there is no indictment, or if the defendant has not been held to answer following a preliminary hearing or waiver of a preliminary hearing, and the defendant challenges the sufficiency of the evidence showing that he or she committed the charged crime or crimes.

(c) The court shall make its decision regarding preventive detention, including the determination of probable cause to believe the defendant committed the charged crime or crimes, based on the statements, if any, of the defendant, offers of proof and argument of counsel, input from a victim, if any, and any evidence presented at the hearing. The court may consider reliable hearsay in making any decision under this section. The defendant shall have the right to testify at the hearing.

(d) (1) At the detention hearing, the court may order preventive detention of the defendant pending trial or other hearing only if the detention is permitted under the United States Constitution and under the California Constitution, and the court determines by clear and convincing evidence that no nonmonetary condition or combination of conditions of pretrial supervision will reasonably assure public safety or the appearance of the defendant in court as required. The court shall state the reasons for ordering preventive detention on the record.

(2) Upon the request of either party, a transcript of the hearing shall be provided within two court days after the request is made.

(3) If either party files a writ challenging the decision, the court of appeal shall expeditiously consider that writ.

(e) (1) If the court determines there is not a sufficient basis for detaining the defendant, the court shall release the defendant on his or her own recognizance or supervised own recognizance and impose the least restrictive nonmonetary condition or combination of conditions of pretrial release to reasonably assure public safety and the appearance of the defendant in court as required.

(2) A person shall not be required to pay for any nonmonetary condition or combination of conditions imposed pursuant to this subdivision.

(f) Solely for the purpose of determining whether the person should be detained or to establish the least restrictive nonmonetary conditions of pretrial release to impose, the court may take into consideration any relevant information, as set forth in a California Rule of Court, including, but not limited to, all of the following:

(1) The nature and circumstances of the crime charged.

(2) The weight of the evidence against the defendant, except that the court may consider the admissibility of any evidence sought to be excluded.

(3) The defendant's past conduct, family and community ties, criminal history, and record concerning appearance at court proceedings.

(4) Whether, at the time of the current crime or arrest, the defendant was on probation, parole, or on another form of supervised release pending trial, sentencing, appeal, or completion of sentence for an offense under federal law, or the law of this or any other state.

(5) The nature and seriousness of the risk to the safety of any other person or the community posed by the defendant's release, if applicable.

(6) The recommendation of Pretrial Assessment Services obtained using a validated risk assessment instrument.

(7) The impact of detention on the defendant's family responsibilities and community ties, employment, and participation in education.

(8) Any proposed plan of supervision.

(g) If a defendant is released from custody following a preventive detention hearing, the court, in the document authorizing the defendant's release, shall notify the defendant of both of the following:

(1) All the conditions, if any, to which the release is subject, in a manner sufficiently clear and specific to serve as a guide for the defendant's conduct.

(2) The penalties for and other consequences of violating a condition of release, which may include the immediate arrest or issuance of a warrant for the defendant's arrest.

1320.21. (a) Upon a showing of newly discovered evidence, facts, or material change in circumstances, the prosecution or defense may file a motion to reopen a preventive detention hearing or for a new hearing at any time before trial. The court, on its own motion, may reopen a preventive detention hearing based on newly discovered evidence, facts, or a material change in circumstances brought to the court's attention by Pretrial Assessment Services.

(b) Any motion for a hearing after the initial preventive detention hearing shall state the evidence or circumstances not known at the time of the preventive detention hearing or the material change in circumstances warranting a reopened or new

preventive detention hearing, including whether there are conditions of release that will reasonably assure public safety and the defendant's return to court as required.

(c) Upon request of the victim of the crime, the victim shall be given notice by the prosecution of the reopened preventive detention hearing. If requested, the victim shall be given a reasonable opportunity to be heard on the matter of the defendant's custody status.

(d) The court may grant the motion to reopen a preventive detention hearing or for a new hearing upon good cause shown.

(e) The court's determination regarding the custody status of the defendant shall be made in accordance with the provisions of this chapter.

1320.22. The court may issue a warrant for the defendant's arrest upon an *ex parte* application showing that the defendant has violated a condition of release imposed by the court. Upon the defendant's arrest, his or her custody status shall be reviewed in accordance with this chapter.

1320.23. (a) If the court issues an arrest warrant, or a bench warrant based upon a defendant's failure to appear in court as required, or upon allegations that the defendant has violated a condition of pretrial or postconviction supervision, the court may indicate on the face of the warrant whether, at the time the defendant is arrested on the warrant, the defendant should be booked and released, detained for an initial review, detained pending arraignment, or detained pending a hearing on the violation of supervision.

(b) If the prosecution, law enforcement, or supervising agency requests a warrant with a custody status for the defendant other than book and release, the agency shall provide the court with the factors justifying a higher level of supervision or detention.

(c) The court's release or detention indication on the warrant shall be binding on the arresting and booking agency and the custody facility, but is not binding on any subsequent decision by a court or Pretrial Assessment Services. The indication is, however, one factor that may be considered by Pretrial Assessment Services or the court when determining the person's custody status in subsequent proceedings.

(d) If the person is arrested on a misdemeanor warrant, the determination of the person's custody status shall start with the procedures set forth in Section 1320.8. If the person is arrested on a felony warrant, the determination of the person's custody status shall start with the procedures set forth in Section 1320.9.

Article 8. Administrative Responsibilities of the Judicial Council

1320.24. (a) The Judicial Council shall adopt California Rules of Court and forms, as needed, to do all of the following:

(1) Prescribe the proper use of pretrial risk assessment information by the court when making pretrial release and detention decisions that take into consideration the safety of the public and victims, the due process rights of the defendant, specific characteristics or needs of the defendant, and availability of local resources to effectively supervise individuals while maximizing efficiency.

(2) Describe the elements of "validation," address the necessity and frequency of validation of risk assessment tools on local populations, and address the identification and mitigation of any implicit bias in assessment instruments.

(3) Prescribe standards for review, release, and detention by Pretrial Assessment Services and the court, that shall include a standard authorizing prearrestment detention if there is a substantial likelihood that no nonmonetary condition or combination of conditions of pretrial supervision will reasonably assure public safety or the appearance of the person as required.

(4) Prescribe the parameters of the local rule of court authorized in Section 1320.11, taking into consideration the safety of the public and the victims, the due process rights of the defendant, and availability of local resources to effectively supervise individuals while maximizing efficiency.

(5) Prescribe the imposition of pretrial release conditions, including the designation of risk levels or categories.

(b) The Judicial Council shall identify and define the minimum required data to be reported by each court. Courts shall submit data twice a year to the Judicial Council. Data will include, but not be limited to, the number of incidences in which individuals are:

(1) Assessed using a validated risk assessment tool, and the risk level of those individuals.

(2) Released on own recognizance or supervised own recognizance pursuant to:

(A) Subdivision (b) of Section 1320.10.

(B) Subdivision (c) of Section 1320.10.

(C) Section 1320.12, disaggregated by risk level.

(D) Section 1320.13, disaggregated by risk level.

(3) Detained at:

(A) Arraignment, disaggregated by risk level.

(B) A pretrial detention hearing, disaggregated by risk level.

(4) Released pretrial on own recognizance or on supervised own recognizance release who:

(A) Fail to appear at a required court appearance.

(B) Have charges filed for a new crime.

(5) Considered for release or detention at a preventive detention hearing.

(c) Pursuant to a contract under subdivision (a) of Section 1320.26, courts may require the entity providing pretrial assessment services to report the data in this section to the Judicial Council, where appropriate.

(d) On an annual basis, each court shall provide the following information to the Judicial Council:

(1) Whether the court conducts prearrest reviews pursuant to Section 1320.13.

(2) The estimated amount of time required for making release and detention decisions at arraignment and preventive detention hearings.

(3) The validated risk assessment tool used by Pretrial Assessment Services.

(e) The Judicial Council shall do all of the following:

(1) Compile and maintain a list of validated pretrial risk assessment tools including those that are appropriate to assess for domestic violence, sex crimes, and other crimes of violence. The Judicial Council shall consult with Pretrial Assessment Services and other stakeholders in compiling the list of assessment tools.

(2) Collect data as prescribed in subdivision (b).

(3) Train judges on the use of pretrial risk assessment information when making pretrial release and detention decisions, and on the imposition of pretrial release conditions.

(4) In consultation with the Chief Probation Officers of California, assist courts in developing contracts with local public entities regarding the provision of pretrial assessment services.

(5) On or before January 1, 2021, and every other year thereafter, submit a report to the Governor and the Legislature documenting program implementation activities and providing data on program outputs and outcomes. The initial report shall focus on program implementation, and subsequent reports shall contain the data described in subdivision (b). A report to be submitted pursuant to this paragraph shall be submitted in compliance with Section 9795 of the Government Code.

(6) Develop, in collaboration with the superior courts, an estimate of the amount of time taken at arraignment to make a release or detention determination when the determination is initially made at arraignment, and the estimated amount of time required for a preventive detention hearing.

(7) Convene a panel of subject matter experts and judicial officers to carry out the responsibilities described in subdivision (a) of Section 1320.25 and make the information available to courts.

1320.25. (a) The panel of experts and judicial officers as set forth in paragraph (7) of subdivision (e) of Section 1320.24 shall designate "low," "medium," and "high" risk levels based upon the scores or levels provided by the instrument for use by Pretrial Assessment Services in carrying out their responsibilities pursuant to Section 1320.9.

(b) The Chief Justice shall designate four individuals with specific subject matter expertise on scoring pretrial risk assessment instruments and three judicial officers with criminal law expertise, one of whom shall be the chair, to serve on this panel. At least one of the experts must have expertise in the potential impact of bias in risk assessment instruments in addition to scoring risk assessments.

1320.26. (a) The courts shall establish pretrial assessment services. The services may be performed by court employees or the court may contract for those services with a qualified local public agency with relevant experience.

(b) Before the court decides to not enter into a contract with a qualified local public agency, the court shall find that agency will not agree to perform this function with the resources available or does not have the capacity to perform the function.

(c) If no qualified local agency will agree to perform this pretrial assessment function for a superior court, and the court elects not to perform this function, the court may contract with a new local pretrial assessment services agency established to specifically perform this role.

(d) For the purpose of the provision of pretrial assessment services, the court may not contract with a qualified local public agency that has primary responsibility for making arrests and detentions within the jurisdiction.

(e) Pretrial assessment services shall be performed by public employees.

(f) Notwithstanding subdivision (h), the Superior Court of the County of Santa Clara may contract with the Office of Pretrial Services of the County of Santa Clara to provide pretrial assessment services within the County of Santa Clara and that office shall be eligible for funding allocations pursuant to subdivision (c) of Section 1320.27 and Section 1320.28.

(g) On or before February 1, 2019, the presiding judge of the superior court and the chief probation officer of each county, or the director of the County of Santa Clara's Office of Pretrial Services for that county, shall submit to the Judicial Council a letter confirming their intent to contract for pretrial assessment services pursuant to this section.

(h) For the purposes of this section:

(1) "Pretrial Assessment Services" does not include supervision of persons released under this chapter.

(2) A “qualified local public agency” is one with experience in all of the following:

- (A) Relevant expertise in making risk-based determinations.
- (B) Making recommendations to the courts pursuant to Section 1203.
- (C) Supervising offenders in the community.
- (D) Employing peace officers.

1320.27. (a) On or before January 10 of each year, the Department of Finance, in consultation with the Judicial Council and the Chief Probation Officers of California, shall estimate the level of funding needed to adequately support the pretrial assessment services provided pursuant to this chapter. The estimate shall be based on a methodology developed by the Department of Finance, in consultation with the Judicial Council of California, that will incorporate the estimated number of defendants charged with a criminal offense who receive a risk assessment, direct and indirect costs associated with conducting risk assessments, and all costs associated with making release and detention decisions by the court and pretrial services. The estimate shall also reflect the direct and indirect cost of staff necessary to perform this function. The department shall publish its estimate and transmit it to the Legislature at the time of the submission of the Governor’s Budget pursuant to Section 12 of Article IV of the California Constitution.

(b) Upon appropriation by the Legislature, the Judicial Council shall allocate funds to local courts for Pretrial Assessment Services. Funds shall be allocated after consultation with key stakeholders, including court executives, representatives of employees, and the Chief Probation Officers of California. As determined by the Judicial Council, the allocation shall include a base amount to support pretrial assessment services across the state and additional funding based on appropriate criteria. The Judicial Council shall consider regional variances in costs, pay scales, and other factors when making allocation determinations. The statewide allocation of the annual funding for pretrial services shall be adopted by the Judicial Council at a public meeting and shall be published publicly.

(c) All funds for pretrial assessment services shall be spent on direct and indirect costs exclusively related to the delivery of those services. Local courts contracting for pretrial assessment services entering into contracts pursuant to Section 1320.26 shall provide all funds received through this allocation directly to the contracting public entity.

(d) Local public entities receiving an allocation pursuant to this section shall separately account for these funds and annually certify that funds have been spent in accordance with relevant state law, including the requirements of this section.

(e) Funds allocated pursuant to this section shall supplement and not supplant current local funding to support pretrial assessment services.

1320.28. (a) By January 10 of each year, the Department of Finance, in consultation with the Judicial Council and the Chief Probation Officers of California, shall estimate the level of resources needed to adequately support the provision of pretrial supervision services provided pursuant to this chapter. The estimate shall reflect the number of individuals being supervised and the level of supervision required. The estimate shall also reflect the direct and indirect cost of personnel necessary to provide these services. The department shall publish its estimate and transmit it to the Legislature at the time of the submission of the Governor’s Budget pursuant to Section 12 of Article IV of the California Constitution.

(b) Upon appropriation by the Legislature, the Department of Finance shall allocate funds to local probation departments for pretrial supervision services. For the purposes of this subdivision, the County of Santa Clara’s Office of Pretrial Services shall be eligible for funding within that county. In allocating the funds, the department shall consider regional variances in costs, pay scales, and other factors when making allocation determinations. Allocations shall include a base portion to support pretrial supervision across the state, and an additional amount based at least in part on the county’s population of adults between 18 and 50 years of age, and local arrest rates. The Department of Finance shall consult with the Judicial Council, the Chief Probation Officers of California, and key stakeholders, including representatives of employees, when adopting the annual allocation methodology.

(c) All funds for pretrial supervision shall be spent on direct and indirect costs exclusively related to the delivery of these services. All funds appropriated to support pretrial services shall be allocated to local entities to support pretrial supervision.

(d) Local public entities receiving an allocation pursuant to this section shall separately account for these funds and annually certify that funds have been spent in accordance with relevant state law, including the requirements of this section.

(e) Local public entities shall only be eligible for this funding when they contract with a court for the provision of pretrial assessment services.

(f) Funds allocated pursuant to this section shall supplement and not supplant current local funding to support pretrial assessment services.

1320.29. By January 10 of each year, the Department of Finance, in consultation with the Judicial Council, shall estimate the level of resources needed to adequately support the Judiciary’s workload under this chapter. The estimate shall reflect the number of cases where the court is making detention

determinations at arraignment, the volume of preventive detention hearings, the average amount of time required to make these determinations and to conduct the hearings, administrative costs associated with contracts for pretrial assessment services, and other factors relating to the Judiciary's workload pursuant to this act. The estimate shall also reflect average direct and indirect cost per minute of trial court proceedings. The department shall publish its estimate and transmit it to the Legislature at the time of the submission of the Governor's Budget pursuant to Section 12 of Article IV of the California Constitution.

1320.30. (a) Upon appropriation by the Legislature, the Board of State and Community Corrections shall contract with an academic institution, public policy center, or other research entity for an independent evaluation of the act that enacted this section, particularly of the impact of the act by race, ethnicity, gender, and income level. This evaluation shall be submitted to the Secretary of the State Senate and the Chief Clerk of the State Assembly by no later than January 1, 2024.

(b) Beginning in the 2019–20 fiscal year, state funds shall supplement, not supplant, local funds allocated to pretrial supervision, assessments, services or other purposes related to pretrial activities, excluding detention.

1320.31. (a) It is the intent of the Legislature that, to the extent practicable, priority for available jail capacity shall be for the postconviction population.

(b) The Legislature finds and declares that implementation of this chapter will require funds necessary to support pretrial risk assessment services,

pretrial supervision, increased trial court workload, and necessary statewide activities to support effective implementation. These funds are reflected in the most recent longer term state spending plan and will be subject to appropriation in the annual Budget Act.

1320.32. Commencing October 1, 2019, all references in this code to "bail" shall refer to the procedures specified in this chapter.

1320.33. (a) Defendants released on bail before October 1, 2019, shall remain on bail pursuant to the terms of their release.

(b) Defendants in custody on October 1, 2019, shall be considered for release pursuant to Section 1320.8, and, if not released, shall receive a risk assessment and be considered for release or detention pursuant to this chapter.

1320.34. This chapter shall become operative on October 1, 2019.

SEC. 5. To the extent practicable, Judicial Council shall coordinate with the Chief Probation Officers of California to provide training efforts, conduct joint training, and otherwise collaborate in necessary startup functions to carry out this act.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



As required by law, the text of Proposition 14, a bond measure, is included in the Official Voter Information Guide, which was mailed to all voter households. The text of proposed law for Proposition 14 is also available online at voterguide.sos.ca.gov.



VOTE SAFE at Early Voting Locations

One or more early voting locations will be available in many counties for **at least four days** beginning the Saturday before the **November 3, 2020**, election. Voting locations will offer voter registration, replacement ballots, accessible voting machines, and language assistance.

You can help keep voting locations safe for voters and election workers in these three ways:

1 Skip the line.

You can return completed ballots **by mail** with no stamp needed, at a secure **ballot drop box**, or at a **voting location**. Voting locations will have separate lines for voters dropping off completed ballots.



Find a nearby drop box or voting location at CAEarlyVoting.sos.ca.gov

2 Vote early.

If you visit a voting location in person, **go before Election Day** to help with physical distancing. One or more voting locations in many counties will be open for **at least four days** beginning the Saturday before Election Day.

3 Follow safety procedures.

Protect your health and the health of other voters and election workers at voting locations by taking the following precautions:

VOTING LOCATION SAFETY CHECKLIST

- Wear a face covering** while at the voting location.
- Keep 2 arms' length distance** from other people.
- Wash hands** before and after entering the voting location.
- Use hand sanitizer** after touching doors or voting equipment.
- Bring a ballpoint pen** to avoid touching high-contact surfaces.
- Want more information about how to stay safe while voting?**
Review Centers for Disease Control and Prevention guidelines at www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html

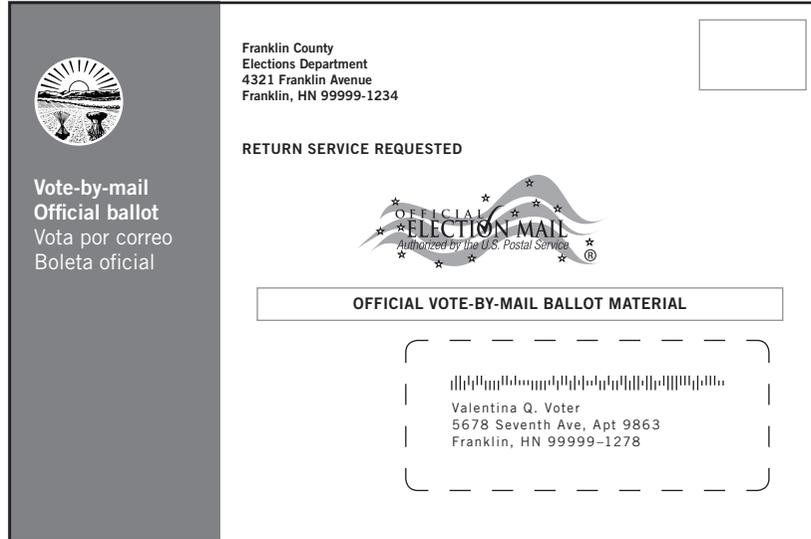
Voters who can vote by mail will help ensure safe physical distancing at voting locations.

County elections offices will begin sending vote-by-mail ballots to California voters beginning **October 5, 2020**. Ballots returned by mail must be postmarked by **November 3, 2020**; ballots returned at a secure ballot drop box must be deposited by **8:00 p.m. on November 3, 2020**.



VOTE SAFE with Your Vote-By-Mail Ballot

All California voters will receive a vote-by-mail ballot for the **November 3, 2020**, election. Your county elections office will begin mailing ballots, similar to the one pictured below, beginning **October 5, 2020**.



Voting by mail is ***SAFE*** and ***EASY***.

After marking your choices on your ballot, simply:



Seal it.

Secure your ballot inside the envelope from your county elections office.



Sign it.

Make sure the ***signature on your ballot envelope matches*** the one on your CA driver license/state ID, or the one you provided when registering. Your county elections office will compare them to protect your vote.



Return it.

By mail—Make sure your ballot is postmarked by **November 3, 2020**. No stamp required!

OR

In person—Drop your ballot off at a secure drop box, polling place, vote center, or county elections office by **8:00 p.m. on November 3, 2020**.



Track it.

You can sign up at wheresmyballot.sos.ca.gov for alerts by text (SMS), email, or voice call on the status of your vote-by-mail ballot.

Voters who can vote by mail will help ensure safe physical distancing at voting locations. Voting locations will be available in all counties before Election Day. Voting locations will offer voter registration, replacement ballots, accessible voting machines, and language assistance.



The California Secretary of State is now offering voters a new way to track and receive notifications on the status of their vote-by-mail ballot. The “Where’s My Ballot?” tool lets voters know where their ballot is, and its status, every step of the way. Sign up at WheresMyBallot.sos.ca.gov.

When you sign up for “Where’s My Ballot?” you will receive automatic updates when your county elections office:

- Mails your ballot,
- Receives your ballot,
- Counts your ballot, or
- If there are any issues with your ballot.

Voters who sign up at WheresMyBallot.sos.ca.gov can choose to receive automatic updates by:

- Email
- Text Message (SMS)
- Voice Call

**Tracking your ballot
—when it is mailed, received, and counted—
has never been easier.**

WheresMyBallot.sos.ca.gov



Elections in California

The Top Two Candidates Open Primary Act requires that all candidates for a voter-nominated office be listed on the same ballot. Previously known as partisan offices, voter-nominated offices include state legislative offices, U.S. congressional offices, and state constitutional offices.

In both the open primary and general elections, you can vote for any candidate regardless of what party preference you indicated on your voter registration form. In the primary election, the two candidates receiving the most votes—regardless of party preference—move on to the general election. If a candidate receives a majority of the vote (at least 50 percent +1), a general election still must be held.

California’s open primary system does not apply to candidates running for U.S. President, county central committees, or local offices.

Write-in candidates for voter-nominated offices can still run in the primary election. However, a write-in candidate can only move on to the general election if the candidate is one of the top two vote-getters in the primary election. Additionally, there is no independent nomination process for a general election.

California law requires the following information to be printed in this guide.

Party-Nominated/Partisan Offices

Political parties may formally nominate candidates for party-nominated/partisan offices at the primary election. A nominated candidate will represent that party as its official candidate for the specific office at the general election, and the ballot will reflect an official designation. The top vote-getter for each party at the primary election moves on to the general election. Parties also elect officers of county central committees at the primary election.

A voter can only vote in the primary election of the political party he or she has disclosed a preference for upon registering to vote. However, a political party may allow a person who has declined to disclose a party preference to vote in that party’s primary election.



U.S. presidential candidate statements can be found online at voterguide.sos.ca.gov

Voter-Nominated Offices

Political parties are not entitled to formally nominate candidates for voter-nominated offices at the primary election. A candidate nominated for a voter-nominated office at the primary election is the nominee of the people and not the official nominee of any party at the general election. A candidate for nomination to a voter-nominated office shall have his or her qualified party preference, or lack of qualified party preference, stated on the ballot, but the party preference designation is selected solely by the candidate and is shown for the information of the voters only. It does not mean the candidate is nominated or endorsed by the party designated, or that there is an affiliation between the party and candidate, and no candidate nominated by the voters shall be deemed to be the officially nominated candidate of any political party. In the county Voter Information Guide, parties may list the candidates for voter-nominated offices who have received the party's official endorsement.

Any voter may vote for any candidate for a voter-nominated office, if they meet the other qualifications required to vote for that office. The top two vote-getters at the primary election move on to the general election for the voter-nominated office even if both candidates have specified the same party preference designation. No party is entitled to have a candidate with its party preference designation move on to the general election, unless the candidate is one of the two highest vote-getters at the primary election.

Nonpartisan Offices

Political parties are not entitled to nominate candidates for nonpartisan offices at the primary election, and a candidate at the primary election is not the official nominee of any party for the specific office at the general election. A candidate for nomination to a nonpartisan office may not designate his or her party preference, or lack of party preference, on the ballot. The top two vote-getters at the primary election move on to the general election for the nonpartisan office.

Top Contributors to State Candidates and Ballot Measures

When a committee (a person or group of people who receive or spend money for the purpose of influencing voters to support or oppose candidates or ballot measures) supports or opposes a ballot measure or candidate and raises at least \$1 million, the committee must report its top 10 contributors to the California Fair Political Practices Commission (FPPC). The committee must update the top 10 list when there is any change.

These lists are available on the FPPC website at
<http://www.fppc.ca.gov/transparency/top-contributors.html>



Voter Registration

If you have already registered to vote, you do not need to re-register **unless** you change your name, home address, mailing address, or if you want to change or select a political party.

You can register to vote online at registertovote.ca.gov or call the Secretary of State's toll-free Voter Hotline at (800) 345-VOTE (8683) to get a form mailed to you.

Voter registration forms can be found at most post offices, libraries, city and county government offices, county elections offices, and the California Secretary of State's Office.

Conditional Voter Registration

During the period of 14 days prior to Election Day and including Election Day, you can go to the office of your county elections official, a vote center, or polling place to conditionally register to vote and vote. To learn more visit sos.ca.gov/elections/voter-registration/same-day-reg/.

Voter Registration Privacy Information

Safe at Home Confidential Voter Registration Program: Certain voters facing life-threatening situations (i.e. victims and survivors of domestic violence, stalking, sexual assault, human trafficking, elder/dependent adult abuse) may qualify for confidential voter status if they are active members of the Safe at Home program. For more information, contact the Secretary of State's Safe at Home program toll-free at (877) 322-5227 or visit sos.ca.gov/registries/safe-home/.

Voter Information Privacy: Information on your voter registration affidavit will be used by elections officials to send you official information on the voting process, such as the location of your polling place and the issues and candidates that will appear on the ballot. Commercial use of voter registration information is prohibited by law and is a misdemeanor. Voter information may be provided to a candidate for office, a ballot measure committee, or other person for election, scholarly, journalistic, political, or governmental purposes, as determined by the Secretary of State. Driver license and social security numbers, or your signature as shown on your voter registration card, cannot be released for these purposes. If you have any questions about the use of voter information or wish to report suspected misuse of such information, please call the Secretary of State's toll-free Voter Hotline at (800) 345-VOTE (8683).

Pre-register at sixteen. Vote at eighteen.

Pre-registration is available online for eligible 16- and 17-year-olds at registertovote.ca.gov or via the paper registration form. California youth who pre-register to vote will have their registration become active once they turn 18 years old.

Pre-register in 4 easy steps:

1. Visit registertovote.ca.gov.
2. Click the "Pre-register to Vote" button.
3. Become automatically registered on your 18th birthday.
4. Cast your ballot on Election Day!

What is Pre-registration?

If you are 16 or 17 years old and meet all other voter eligibility requirements, you can pre-register to vote at registertovote.ca.gov.

Simply complete the online pre-registration application and on your 18th birthday, you will automatically be registered to vote.



How to vote by mail

Who can vote by mail?

Every registered voter will receive a vote-by-mail ballot for the November 3, 2020, General Election. County elections officials will begin mailing ballots to voters by October 5, 2020. If you do not receive your vote-by-mail ballot or need to request a replacement, please contact your county elections office. County elections office contact information can be found at sos.ca.gov/elections/voting-resources/county-elections-offices.

How to return your vote-by-mail ballot

After marking your choices on your vote-by-mail ballot, place it in the official envelope provided by your county elections office and seal it. **Sign** the envelope where directed. You have multiple options for returning your ballot.

To ensure your ballot arrives by the deadline, return it either:



By mail—must be postmarked on or before **November 3** and received by your county elections office no later than **November 20**. **No postage is required!**



In person—drop off at your county elections office or any vote center, polling place, or ballot drop-off location in California before the polls close at 8:00 p.m. on November 3.

State law gives voters the freedom to designate anyone they choose to return their vote-by-mail ballots. However, we recommend that you only sign your completed ballot over to someone you trust. And never hand over your vote-by-mail ballot if you have not sealed and signed the back of the return envelope provided by your county elections office.

Even if you receive your vote-by-mail ballot and envelope, you can still vote in person at your polling place on Election Day. Bring your vote-by-mail ballot to the polling place and give it to a poll worker to exchange for a polling place ballot. If you do not have your vote-by-mail ballot and envelope, you may have to vote using a provisional ballot. This ensures that you have not already cast a ballot.

All counties offer an accessible option called remote accessible vote-by-mail (RAVBM). RAVBM allows voters with disabilities to receive their ballots at home and mark them independently and privately before sending them back to elections officials. Contact your county elections official for more information.



Want to see the November 3, 2020, General Election results after the polls close at 8:00 p.m.? Visit the California Secretary of State's Election Results website at electionresults.sos.ca.gov.

The Election Results website is updated every five minutes on Election Night as counties report results to the Secretary of State. County elections officials send semi-official election results to the Secretary of State's website after the polls close at 8:00 p.m. and continue to send updates at least every two hours until all election day ballots are counted.

Beginning on November 5 through December 3, 2020, the Election Results website will update every day at 5:00 p.m. as counties count the remaining ballots.

The official results of the election will be posted by December 11, 2020, at sos.ca.gov/elections/.

Assistance for Voters with Disabilities

California is committed to ensuring every voter can cast their ballot privately and independently.

For more detailed information about what assistance your county offers to voters with disabilities, please check your county Voter Information Guide or contact your county. County contact information is available at sos.ca.gov/elections/voting-resources/county-elections-offices.

Voting at a Polling Place or Vote Center

If you need help marking your ballot, you may choose up to two people to help you. This person cannot be:

- Your employer or anyone who works for your employer
- Your labor union leader or anyone who works for your labor union

Curbside voting allows you to park as close as possible to the voting area. Elections officials will bring you a roster to sign, a ballot, and any other voting materials you may need, whether you are actually at a curb or in a car. Contact your county elections office to see if curbside voting is available at your polling place or vote center.

All polling places and vote centers are required to be accessible to voters with disabilities and will have accessible voting machines.

Voting at Home

Remote accessible vote-by-mail (RAVBM) systems provide an accessible option for voters with disabilities to receive their ballots at home and mark them independently and privately before sending them back to elections officials. Contact your county elections official for more information.

Audio & Large Print Voter Information Guides

This guide is available in audio and large print versions. The guide is also available at no cost in English, Chinese, Hindi, Japanese, Khmer, Korean, Spanish, Tagalog, Thai, and Vietnamese.

To order:



Call the Secretary of State's toll-free Voter Hotline at (800) 345-VOTE (8683)



Visit voterguide.sos.ca.gov



Download an audio MP3 version at voterguide.sos.ca.gov/en/audio

DATES TO REMEMBER!



REMEMBER TO VOTE!

Polls are open from 7:00 a.m. to 8:00 p.m. on Election Day!

OCTOBER

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

October 5, 2020

Counties will begin mailing vote-by-mail ballots.

October 19, 2020

Last day to register to vote. You can “conditionally” register and vote at your county elections office or voting location after the 15-day voter registration deadline.

NOVEMBER

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

November 3, 2020 Election Day!

California Secretary of State
Elections Division
1500 11th Street
Sacramento, CA 95814

NONPROFIT
U.S. POSTAGE
PAID
CALIFORNIA
SECRETARY
OF STATE



VOTE SAFE
CALIFORNIA

All California voters will receive a vote-by-mail ballot for the November 3, 2020, election. Learn more inside.

English: (800) 345-VOTE (8683) TTY/TDD: (800) 833-8683

អ្នកបោះឆ្នោតទាំងអស់ក្នុងរដ្ឋ California នឹងទទួលបាន សន្លឹកឆ្នោតបោះតាមសំបុត្រសម្រាប់ការបោះឆ្នោតនៅថ្ងៃទី ៣ ខែវិច្ឆិកា ឆ្នាំ 2020 ។ សម្រាប់សំណួរ ឬជំនួយអ្នកបោះឆ្នោត សូមហៅមកលេខខាងក្រោម ។
ខ្មែរ/Khmer: (888) 345-4917

Todos los votantes de California recibirán una boleta electoral de voto por correo para la elección del 3 de noviembre de 2020. Para preguntas o asistencia al votante, llame al número a continuación.

Español/Spanish: (800) 232-VOTA (8682)

모든 캘리포니아 유권자는 2020년 11월 3일 선거를 위한 우편 투표지 받게 됩니다. 문의 사항 또는 유권자 지원을 원하시면, 아래 전화번호로 연락해 주십시오.
한국어/Korean: (866) 575-1558

所有加州選民將收到用於 2020 年 11 月 3 日選舉的郵寄投票選票。如有疑問或需要提供選民協助，請致電下列號碼。

中文/Chinese: (800) 339-2857

Tatanggap ang lahat ng botante ng California ng balota para sa pagboto sa pamamagitan ng koreo para sa halalan sa Nobyembre 3, 2020. Para sa mga katanungan o tulong sa botante, mangyaring tawagan ang numero sa ibaba.
Tagalog: (800) 339-2957

कैलिफोर्निया के सभी मतदाताओं को 3 नवंबर, 2020 के चुनाव के लिए 'डाक-द्वारा-मतदान करें' मतपत्र प्राप्त होगा। प्रश्नों या मतदाता सहायता के लिए, कृपया नीचे दिए गए नंबर पर कॉल करें।
हिन्दी/Hindi: (888) 345-2692

ผออกเสียงลงคะแนนในรัฐแคลิฟอร์เนียทุกคนจะ ได้รับบัตรเลือกตั้งประเภทลงคะแนนเสียงผ่านทาง ไปรษณีย์สำหรับการเลือกตั้งที่จะจัดขึ้นในวันที่ 3 พฤศจิกายน 2020 หากมีข้อสงสัยหรือต้องการความช่วยเหลือ โปรดโทรติดต่อหมายเลขด้านล่าง
ภาษาไทย/Thai: (855) 345-3933

すべてのカリフォルニア州有権者には2020年11月3日選挙の郵便投票用紙が送られます。お問い合わせまたは有権者の支援に関しては、以下の番号までお電話ください。
日本語/Japanese: (800) 339-2865

Tất cả các cử tri California đều sẽ nhận được lá phiếu bầu bằng thư cho kỳ bầu cử vào ngày 3 tháng Mười Một, 2020. Nếu có thắc mắc hoặc cần giúp về bầu cử, xin gọi số điện thoại dưới đây.
Việt ngữ/Vietnamese: (800) 339-8163