

Memorandum 2001-27

Criminal Sentencing Statutes (Draft Tentative Recommendation)

The Commission is proposing a nonsubstantive reorganization of statutes providing sentence enhancements for crimes involving weapons and injuries. A staff draft tentative recommendation is attached. If the Commission approves the draft, it will be circulated for public comment. A few issues relating to the draft are discussed below. All statutory references in this memorandum are to the Penal Code.

Effect of Reenactment

“When a statute has been construed by the courts, and the Legislature thereafter reenacts that statute without changing the interpretation put on that statute by the courts, the Legislature is presumed to have been aware of, and acquiesced in, the courts' construction of that statute.” *People v. Ledesma*, 16 Cal. 4th 90, 101 (1997). Considering the complexity and political sensitivity of sentencing law, it should perhaps be made clear that the proposed law is not intended to indicate legislative acceptance of any pre-existing judicial construction of the reorganized statutes. This could be achieved by adding language along the following lines to proposed Section 17501:

17501. (a) A provision of this title, insofar as it is substantially the same as a previously existing provision relating to the same subject matter, shall be construed as a restatement and continuation thereof and not as a new enactment, and a reference in a statute to the provision of this part shall be deemed to include a reference to the previously existing provision unless a contrary intent appears.

(b) Restatement and continuation of a provision in this title is not intended to ratify or abrogate any prior judicial interpretation of that provision.

Comment. ...

Subdivision (b) makes clear that mere restatement and continuation of a provision in this title does not indicate any legislative position regarding a prior judicial interpretation of the provision.

The language in subdivision (b) is similar to Comment language used in a previous recommendation to address concerns about legislative acquiescence.

The advantage of this approach is that it should dispel any concern that the proposed law would have the substantive effect of ratifying judicial interpretations of the reorganized provisions. One possible disadvantage of this approach is that it could create an inference that failure to use such language in other contexts indicates the Legislature's willingness to accept prior judicial interpretations. Another possible problem is overbreadth. The disclaimer rebuts the legislative acquiescence presumption where a provision is restated and continued in the title. This is appropriate for our proposed legislation, but may be inappropriate with respect to later additions to the title.

On balance, the language is probably beneficial. **The staff recommends** that the language be added to the tentative recommendation. A note could be added specifically inviting comment on whether the language is appropriate.

Conforming Revisions

The proposed draft reorganizes and renumbers the weapon and injury enhancement provisions. Numerous sections refer to the provisions that have been renumbered. The draft includes language to update these cross-references. These changes are technical and only one is worth mentioning. Existing 666.7 is intended to provide a nonsubstantive catalog of all sentence enhancement provisions. It contains cross-references to all of the provisions reorganized under the proposed law. In addition to correcting these cross-references, the proposed law also makes a few technical improvements:

Section Divided and Relocated

Section 666.7 currently consists of twenty subdivisions (which group enhancements with similar terms), with over 130 subordinate paragraphs. Under the proposed law, the subdivisions are recast as separate sections. See proposed Sections 17523.010-17523.120. This will significantly simplify use and maintenance of the catalog.

The section would also be relocated from its current location, in a title comprised of over 40 miscellaneous "General Provisions," to the "Catalog of Enhancements" article in the "Sentence Enhancements" title, a much more prominent location. It seems likely that more practitioners would discover the catalog in this location.

In a deviation from normal drafting conventions, the proposed law uses numerical paragraph numbering for what would ordinarily be lettered subdivisions. This was done to avoid any future use of double letter subdivisions (e.g., subdivision (aa)) where more than 26 enhancements with the same term exist. There are already two enhancement terms that are common to more than twenty enhancements. See Section 666.7(a) (23 one-year enhancements) & (d) (21 two-year enhancements). If the Commission prefers, the conventional subdivision lettering can be used instead.

Schedule Naming Scheme

Under Section 666.7, enhancements are listed in ascending order of severity, with those sharing a common term referred to as a single “schedule,” named after the subdivision in which they appear. Thus, all one-year enhancements are grouped in Section 666.7(a) and may be referred to as “Schedule A” enhancements. This system breaks down when new enhancement terms are created. For example, Section 12022.7(d) was added in 2000 to create a new enhancement of four, five, or six years. Section 666.7 does not presently include any enhancements with that term. It includes Schedule J (four years) and Schedule K (four, five, or 10 years). A new schedule must be created to refer to Section 12022.7(d). Should this schedule be placed at the end of the catalog and designated “Schedule U,” violating the ascending order scheme? Should it be placed in its proper position in the ascending order and designated “Schedule J.5,” (or some such)? Should it be placed in the proper ascending order position and designated “Schedule K,” with all of the following schedules renamed to avoid duplication? All of these solutions are awkward. Note that SB 205 (McPherson) (2001) would update Section 666.7 to correct errors and omissions. It uses the last approach — placing new schedules in ascending order and renaming following schedules to avoid duplication.

The proposed law attempts to eliminate the problems inherent in an alphabetical ascending order scheme by replacing it with a scheme that refers to the length of the sentence enhancement itself. Thus, one year enhancements are referenced as “Schedule 1,” enhancements with term of one, two, or three years are referenced as “Schedule 1-2-3,” etc. The simplicity of this system is disrupted slightly by the recent addition of an enhancement of a term of sixteen months, two years, or three years. See Section 186.33(b)(1). The proposed law refers to this enhancement as “Schedule 1 1/3-2-3.” See proposed Section 17523.030. A note

following Section 17523.010 solicits comments on the merits of the approach taken in the proposed law.

Possible Repeal

A simple solution to the technical problems posed by Section 666.7 would be to repeal it. The staff has spoken with practitioners who raised doubts about the usefulness of the section. They feel it is overly long, awkwardly organized, unknown to most practitioners, and difficult to maintain. The note following Section 17523.010 solicits feedback on whether it might be best to repeal the section.

Respectfully submitted,

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Staff Counsel

1 CRIMINAL SENTENCING: REORGANIZATION
2 OF WEAPON AND INJURY ENHANCEMENTS

3 The California Law Revision Commission recommends a nonsubstantive
4 reorganization of statutes providing sentence enhancements for crimes involving
5 weapons and injuries. This reorganization will make it easier to locate applicable
6 enhancements and will establish a structure for better organization of sentencing
7 provisions in the future.

8 **Existing Law**

9 Felony sentencing is governed by a complex array of statutes and rules of court.¹
10 For the most part, felonies are subject to determinate sentencing provisions, under
11 which fixed terms of imprisonment are specified for each offense.² Typically,
12 three different terms are specified,³ with the middle term imposed except in cases
13 of aggravation or mitigation.⁴ A felony violation may also be subject to a sentence
14 enhancement, which provides for an additional term of imprisonment in specified
15 circumstances.⁵ Rules governing repeat offenders,⁶ and consecutive terms⁷ add
16 considerably to the complexity.

1. The principal determinate sentencing statutes can be found at Penal Code Sections 1170-1170.9. See also Cal. R. Ct. 4.401-4.480.

2. Although California has moved toward determinate sentencing, there are still a number of indeterminate sentences. See, e.g., Penal Code §§ 451.5 (ten years to life), 664(e) (life with possibility of parole), 667.75 (life without possibility of parole for 17 years). The interrelationship between determinate and indeterminate sentences adds to the complexity of sentencing law.

3. See, e.g., Penal Code § 213(a)(2) (two, three, or five years imprisonment for robbery of second degree).

4. Penal Code § 1170(b).

5. See, e.g., Penal Code § 12022.53(b) (ten year additional sentence where gun used in commission of robbery).

6. See Penal Code §§ 667, 667.61, 667.7, 667.71, & 667.75.

7. Penal Code § 1170.1.

1 **Problems Under Existing Law**

2 The sentencing laws have been criticized as too complex and difficult to
3 understand. In the words of one appellate opinion:⁸

4 [The] sentencing statutes are mind-numbingly complicated, and by virtue of continued
5 legislative tinkering, not likely to soon become any easier to apply. As the trial judge in this case
6 remarked: “I regard it as one of the principal credits to my professional career that I had nothing to
7 do with designing the determinate sentencing law.” Such frustration is widely spread. ... The
8 frequency with which both simple and vexatious sentencing questions are raised on appeal
9 strongly suggests that the Legislature can and should undertake with the help of bench and bar a
10 solid comprehensive overhaul of the system to help all potential defendants and the public
11 generally.

12 The complexity of sentencing law creates a number of problems. It makes the
13 process of calculating a sentence more difficult, adding to the burden on trial
14 judges: “The sentencing formulas are complex, inconsistent and confusing. A
15 judge is often required to complete a worksheet which can be more complicated
16 than an IRS form in order to calculate the proper sentence.”⁹ The complexity also
17 contributes to a significant rate of reversal on appeal. According to a Judicial
18 Council study, sentencing errors are the single greatest class of errors leading to
19 reversal. In the period studied, sentencing errors accounted for 55% of reversals in
20 criminal cases.¹⁰ If, as a result of the complexity of sentencing laws, a prosecuting
21 attorney fails to properly plead an applicable sentence enhancement at trial, the
22 error cannot be corrected on appeal — the defendant’s sentence will be shorter
23 than is mandated by law.¹¹

8. *People v. Reyes*, 212 Cal. App. 3d 852, 858-59, 260 Cal. Rptr. 846 (1989). For other examples of judicial criticism of the sentencing laws, see *People v. Winslow*, 40 Cal. App. 4th 680, 684, 46 Cal. Rptr. 2d 901 (1995) (“We agree with the previously articulated criticism of the Determinate Sentencing Act of 1976. It is capable of trapping everyone, even those who profess expertise.”); *People v. Sutton*, 113 Cal. App. 3d 162, 164, 169 Cal. Rptr. 656 (1980) (sentencing law “a legislative monstrosity, which is bewildering in its complexity. ... One result is crystal clear — sentencing today affords a rich field of appellate litigation.”); *California Community Release Bd. v. Superior Court*, 91 Cal. App. 3d 814, 815 n.1, 154 Cal. Rptr. 383 (1979) (“As a sentencing judge wends his way through the labyrinthine procedures of Section 1170 of the Penal Code, he must wonder, as he utters some of its more esoteric incantations, if, perchance, the Legislature had not exhumed some long departed Byzantine scholar to create its seemingly endless and convoluted complexities. Indeed, in some ways it resembles the best offerings of those who author bureaucratic memoranda, income tax forms, insurance policies or instructions for the assembly of packaged toys.” See also Ross, *The Clutter in Criminal Law*, California Journal, Oct. 1995, at 18 (“Crimes, enhancements, mandatory sentences and other concepts should be simplified, easy to find and understand, and easy to apply. A commission could accomplish this without making substantive changes in current law.”); *Putting Violence Behind Bars: Redefining the Role of California’s Prisons*, Little Hoover Comm’n (Jan. 1994) (recommending reform of sentencing law, “which has grown too complex and inequitable through constant, uncoordinated alterations”).

9. Letter from Senator Bill Lockyer to Governor George Deukmejian, Sept. 10, 1990 (on file with California Law Revision Commission).

10. 1983 Judicial Council Ann. Rep. 7.

11. See, e.g., *People v. Latimer*, 5 Cal. 4th 1203, 858 P.2d 611, 23 Cal. Rptr. 2d 144 (1993) (three-year enhancement for kidnapping for the purpose of rape was not plead and proved at trial and could not be imposed on appeal), *People v. Hernandez*, 46 Cal. 3d 194, 757 P.2d 1013, 249 Cal. Rptr. 850 (1988) (imposition of enhancement violated due process where enhancement had not been plead or proved at trial).

1 The complexity of the sentencing laws may also make it difficult for the
2 Legislature to assess whether a proposed sentencing provision is necessary (i.e., is
3 not duplicative of existing law), fairly proportional to other comparable sentences,
4 and well coordinated with existing sentencing statutes.

5 **Previous Reform Efforts**

6 In recent years, a number of attempts have been made to rationalize the
7 sentencing statutes. From 1988 to 1995, Senator Lockyer introduced a series of
8 bills to comprehensively reform the sentencing laws.¹² These efforts enjoyed
9 significant support.¹³ However, the bills would have done more than reorganize
10 and simplify the law. They would have made a number of substantive changes,
11 including changes to sentence lengths. These changes proved controversial and
12 none of the bills was successfully enacted.¹⁴ In 1997, Senator Lockyer introduced
13 legislation to make a number of less controversial reforms to sentencing laws.¹⁵
14 That effort was successful.¹⁶

15 In 1998, Penal Code Section 666.7 was added to create a nonsubstantive
16 statutory index of all sentence enhancement provisions, organized by length of
17 enhancement.¹⁷ In explaining the purpose of Section 666.7, Senator Schiff
18 writes:¹⁸

19 Over the years, the Legislature has found it expedient to sprinkle enhancements throughout the
20 statutes. This has made our sentencing formulas confusing and has twisted the actual intent of our
21 body of law which should be a balanced justice for all individuals. ...

22 Enhancements are also the most complex and chaotic provisions in the Penal Code. There are
23 over one hundred enhancements with nineteen different types of punishments. More so,
24 enhancements may be a single term, multiple terms, or even indeterminate. I think the Assembly
25 Committee on Public Safety's analysis on SB 58 says it best when it reads, "... most of the

12. SB 2500 (1988), SB 2501 (1988), SB 25 (1990), SB 25(1992), SB 58 (1993), SB 3X (1994), and SB 769 (1995).

13. Although support varied with respect to the different bills, one or more of them were supported by the California District Attorneys Association (which sponsored most of the bills), the California Peace Officers' Association, the California Police Chiefs' Association, the California Correctional Peace Officers Association, the Honorable Steven Z. Perren (then chair of the California Judges Association Criminal Law and Procedure Committee), and the Little Hoover Commission. See, e.g., letter from Jeannine L. English, Executive Director of Little Hoover Commission, to Senator Bill Lockyer (Jan 26, 1994), Senate Committee on Judiciary Analysis of Senate Bill 1794 (April 20, 1993), (on file with California Law Revision Commission), letter from Hon. Steven Z. Perren to Richard Piedmonte, Legislative Coordinator, California Judges Association (Aug. 4, 1989), (on file with California Law Revision Commission), letter from Gary S. Mullen, Executive Director, California District Attorneys Association, to Assembly Member Charles W. Quackenbush (June 30, 1989) (on file with California Law Revision Commission).

14. SB 25 (1990) was vetoed by Governor Deukmejian and SB 25 (1992) was vetoed by Governor Wilson. The remainder were not enacted by the Legislature.

15. SB 721 (1997). The bill eliminated complex limits on the length of consecutive sentences and made a number of technical improvements.

16. 1997 Cal. Stat. ch. 750.

17. 1998 Cal. Stat. ch. 395 (SB 1794 (Schiff)).

18. See Senate Committee on Public Safety Analysis of Senate Bill 1794 (April 28, 1998).

1 complexities of current sentencing law are ... the result of the many and varied sentence
2 enhancements.”

3 Therefore, SB 1794 is a small but necessary step in the right direction. I imagine this legislation
4 will become an easy reference guide for members, staffers and judges to consult. But even more
5 importantly, it will allow us to consider sentencing enhancements based on proportionality.
6 Currently, pure economics and cold fiscal considerations determine how severe an enhancement
7 can be added to any piece of legislation. SB 1794 will bring much more fairness and objectivity to
8 the political process when we deliberate on future sentencing enhancements.

9 In 1999, two bills were introduced to reform weapon- and injury-related
10 sentence enhancements provisions.¹⁹ These bills would have slightly lengthened
11 some enhancement terms, eliminated redundant enhancements, and revised the
12 provisions to make the language clearer and more uniform. Both bills failed to
13 pass out of committee.

14 **Proposed Law**

15 Substantive reform of sentencing statutes is politically controversial and very
16 difficult to accomplish. The California Law Revision Commission recommends
17 that sentence enhancement provisions relating to crimes involving weapons and
18 injuries be reorganized, *without affecting their substance*.²⁰ This will simplify the
19 law by placing these provisions in a single location, organized by the nature of the
20 enhancement. Such a reorganization would make it easier for judges and attorneys
21 to locate applicable enhancements, streamlining the sentencing process and
22 reducing the likelihood of errors involving sentence enhancements. Establishment
23 of a single, well-organized location for sentence enhancements would also make it
24 easier for Legislators to coordinate any future sentencing changes with existing
25 law. The proposed law could also serve as a model for further reorganization.²¹

26 The Commission recognizes that changes to section numbers will impose certain
27 transitional costs as practitioners learn the new system, and will require use of
28 tables to correlate references to old section numbers with the new section numbers.
29 However, the Commission believes that reorganization would result in significant
30 benefits, as the reorganized provisions would be easier to use and maintain. The
31 Commission is particularly interested in receiving comments from judges and
32 practitioners on whether the benefits of the proposed reorganization would justify
33 any inconvenience that would result from section renumbering.

19. AB 245 (Cuneen) (weapon enhancements) and SB 226 (Karnette) (injury enhancements).

20. The proposed law would make one minor substantive change, to correct an apparent legislative oversight. See proposed Section 17526 and accompanying note.

21. An obvious next step would be to reorganize all remaining sentence enhancements (relating to prior convictions, vulnerable victims, etc.).

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PROPOSED LEGISLATION

Penal Code §§ 17000-17587 (added). Sentencing

SEC. ____ . Part 6 (commencing with Section 17000) is added to the Penal Code, to read:

PART 6 . SENTENCING

TITLE 1 . GENERAL PROVISIONS

Penal Code § 17000. Legislative intent.

17000. The Legislature intends to reserve Sections 17000 to 17999, inclusive, for sentencing provisions.

Comment. Section 17000 is new. It indicates the Legislature’s intent to reserve a block of sections as a location for sections relating to criminal sentencing.

TITLE 2 . (RESERVED)

TITLE 3 . (RESERVED)

TITLE 4 . SENTENCE ENHANCEMENTS

CHAPTER 1. GENERAL PROVISIONS

Article 1. Purpose of Title

Penal Code § 17500. Purpose of title

17500. (a) The purpose of this title is to provide a single location for sentence enhancements relating to weapons and injuries. This will make it easier for prosecutors, defense attorneys, and judges to determine which of the numerous enhancement provisions apply in a particular case.

(b) Sentence enhancements relating to weapons or injuries shall be located in this title.

(c) A failure to locate a sentence enhancement relating to weapons or injuries in this title has no effect on the validity or meaning of the sentence enhancement.

Comment. Section 17500 is new. It states the purpose of this title as the repository of sentence enhancements relating to weapons and injuries.

1 **Penal Code § 17501. Continuation of existing statutes**

2 17501. A provision of this title, insofar as it is substantially the same as a
3 previously existing provision relating to the same subject matter, shall be
4 construed as a restatement and continuation thereof and not as a new enactment,
5 and a reference in a statute to the provision of this part shall be deemed to include
6 a reference to the previously existing provision unless a contrary intent appears.

7 **Comment.** Section 17501 is a standard type of provision in the codes. See, e.g., Corp. Code §
8 2; Fam. Code § 2; Prob. Code § 2(a). See also Gov't Code §§ 9604 (construction of restatements
9 and continuations), 9605 (construction of amended statutory provision). The last clause makes
10 clear that a statutory reference to a new provision of this title includes a reference to the former
11 law from which it is drawn. *Cf.* Gov't Code § 9604 (reference to previously existing provision
12 deemed reference to restatement or continuation).

13 A number of terms and phrases are used in the Comments to the sections of this title to indicate
14 the sources of the sections and to describe how they compare with prior law. The following
15 discussion is intended to provide guidance in interpreting the terminology most commonly used
16 in the Comments.

17 (1) *Continues without change.* A new provision “continues” a former provision “without
18 change” if the two provisions are identical or nearly so. In some cases, there may be insignificant
19 technical differences, such as where a typographical error or punctuation is corrected without a
20 change in meaning. Some Comments may describe the relationship by simply stating that a new
21 provision “continues” or is “the same as” a former provision,

22 (2) *Continues without substantive change.* A new provision “continues” a former provision
23 “without substantive change” if the substantive law remains the same, but the language differs to
24 an insignificant degree. This may include revision of language to make a statute gender-neutral.

25 (3) *Restates without substantive change.* A new provision “restates” a former provision
26 “without substantive change” if the substantive law remains the same but the language differs to a
27 significant degree. Some Comments may describe the new provision as being the “same in
28 substance.”

29 (4) *Exceptions, additions, omissions.* If part of a former provision is “continued” or “restated,”
30 the Comment may say that the former provision is continued or restated, but also note the specific
31 differences as “exceptions to,” “additions to,” or “omissions from” the former provision.

32 (5) *Generalizes, broadens, restates in general terms.* A new provision may be described as
33 “generalizing,” “broadening,” or “restating in general terms” a provision of prior law. This
34 description means that a limited rule has been expanded to cover a broader class of cases.

35 (6) *New.* A provision is described as “new” where it has no direct source in prior statutes.

36 **Article 2. Definitions**

37 **Penal Code § 17505. Great bodily injury**

38 17505. As used in this title, “great bodily injury” means a significant or
39 substantial physical injury.

40 **Comment.** Section 17505 generalizes former Section 12022.7(e). This definition is consistent
41 with judicial interpretation of the phrase “great bodily injury” in statutes that do not define the
42 term. See, e.g., *People v. Richardson*, 23 Cal. App. 3d 403, 100 Cal. Rptr. 251 (1972); *People v.*
43 *Wells*, 14 Cal. App. 3d 348, 92 Cal. Rptr. 191 (1971). The definition is also consistent with
44 California jury instructions relating to statutes that use but do not define the phrase “great bodily
45 injury.” See Cal. Jury Instr. Crim. §§ 7.35, 9.36.5, 9.94, 12.55.7, 14.80, 14.82, 16.013 (6th ed.
46 2000).

1

Article 3. Selection of Term

2

Penal Code § 17520. Middle term presumption

3

17520. Pursuant to subdivision (b) of Section 1170, if a sentence enhancement is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term unless there are circumstances in aggravation or mitigation of the crime. The court shall set forth on the record the facts and reasons for imposing the upper or lower term.

8

Comment. Section 17520 generalizes former Sections 12021.5(a)-(b), 12022(c)-(d), 12022.2(a)-(b), 12022.3(b), 12022.4, 12022.5(a)(2) & (c), 12022.7(d), without substantive change. This section restates part of Section 1170(b) without substantive change. See also *People v. Hall*, 8 Cal. 4th 950, 981, 883 P.2d 974, 35 Cal. Rptr. 2d 432 (1994) (Section 1170 governs sentence enhancements); Cal. R. Ct 4.428(b).

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Penal Code § 17521. Knowledge that firearm is stolen

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17521. In applying an enhancement under Section 17530, 17531, 17532, 17534, 17536, 17537, 17538, 17539, 17545, 17546, 17547, 17548, 17550, 17551, or 17552, the fact that a person knew or had reason to believe that a firearm was stolen shall constitute a circumstance in aggravation justifying imposition of the upper term.

19

Comment. Section 17521 restates former Section 1170.89 without substantive change.

20

Article 4. Catalog of Enhancements

21

Penal Code § 17523.010. Purpose of article

22

17523.010. (a) It is the intent of the Legislature that this article serve merely as a nonsubstantive comparative reference of current sentence enhancement provisions. Nothing in this article shall have any substantive effect on the application of any sentence enhancement contained in any provision of law, including: omission of any sentence enhancement provision, inclusion of any obsolete sentence enhancement provision, or inaccurate reference or summary of a sentence enhancement provision.

29

(b) It is the intent of the Legislature to amend this article as necessary to accurately reflect current sentence enhancement provisions, including the addition of new provisions and the deletion of obsolete provisions.

32

(c) For the purposes of this article, the term “sentence enhancement” means an additional term of imprisonment in the state prison added to the base term for the underlying offense. A sentence enhancement is imposed because of the nature of the offense at the time the offense was committed or because the defendant suffered a qualifying prior conviction before committing the current offense.

37

Comment. Section 17523.010 continues the introductory paragraphs of former Section 666.7 without substantive change.

38

1 ☞ **Note.** Penal Code Section 666.7 is intended to provide a nonsubstantive cross-reference to all
2 sentence enhancements. These enhancements are organized by the length of the enhancement;
3 grouped into alphabetically designated “schedules” in ascending order of length. Thus, one year
4 enhancements are designated “Schedule A,” one-, two-, or three-year enhancements are
5 designated “Schedule B,” etc. This scheme is inherently difficult to maintain. If a new
6 enhancement is created that does not match any of the existing schedules, it must either be placed
7 at the end (in which case the ascending order is not observed) or in ascending order (in which
8 case the alphabetical designations must be altered somehow to fit in a new schedule), or all of the
9 schedules must be renamed. This problem has already occurred. For example, Penal Code Section
10 12022.7(d) was added to create a new enhancement of four, five, or six years. In the ascending
11 order scheme, this falls between Schedule J (four years) and Schedule K (four, five, or 10 years).
12 A new schedule must be created to refer to Section 12022.7(d). Should it be designated “Schedule
13 U,” violating the ascending order, should it be placed in ascending order and designated
14 “Schedule J.5” or “Schedule J-2”, or should all of the schedules be renamed? All of these
15 solutions are awkward. Note that SB 205 (McPherson) would update Section 666.7 to correct
16 errors and add new references. It places the new schedules in ascending order and renames all of
17 them to preserve the alphabetical naming.

18 The proposed law attempts to eliminate the problems inherent in an alphabetical ascending
19 order scheme by replacing it with a scheme that refers to the length of the sentence enhancement
20 itself. Thus, one year enhancements are referenced in “Schedule 1,” one-, two-, or three- year
21 enhancements are referenced in “Schedule 1-2-3,” etc.

22 Another possibility that should be considered is repeal of the catalog provisions entirely. they
23 are very difficult to maintain and may not be useful to practitioners. Especially if all
24 enhancements are eventually gathered in one well-organized location, the need for a catalog of
25 the type found in Section 666.7 is doubtful. Another possibility would be to preserve the catalog,
26 but eliminate the schedule designations. It isn’t clear that creating schedule names is useful. The
27 Commission would like to receive comments regarding the approaches discussed above.

28 **Penal Code § 17523.015. Schedule 1**

29 17523.015. The provisions listed in this section imposing a sentence
30 enhancement of one year of imprisonment in the state prison may be referenced as
31 “Schedule 1.”

32 (1) Money laundering when the value of transactions exceeds fifty thousand
33 dollars (\$50,000), but is less than one hundred fifty thousand dollars (\$150,000)
34 (Section 186.10(c)(1)(A)).

35 (2) Commission of two or more related felonies, a material element of which is
36 fraud or embezzlement, which involve a pattern of related felony conduct,
37 involving the taking of more than one hundred thousand dollars (\$100,000)
38 (Section 186.11(a)(3)).

39 (3) Felony conviction of willful harm or injury to a child, involving female
40 genital mutilation (Section 17573).

41 (4) Prior conviction of felony hate crime with a current conviction of felony hate
42 crime (Section 422.75(e)).

43 (5) Harming, obstructing, or interfering with any horse or dog being used by any
44 peace officer in the discharge or attempted discharge of his or her duties and, with
45 the intent to so harm, obstruct, or interfere, personally causing the death,
46 destruction, or serious physical injury of any horse or dog (Section 17587(a)).

- 1 (6) Prior prison term with current felony conviction (Section 667.5(b)).
- 2 (7) Commission of any specified offense against a person who is 65 years of age
- 3 or older, blind, a paraplegic or quadriplegic, or under 14 years of age (Section
- 4 667.9(a)).
- 5 (8) Showing child pornography to a minor prior to or during the commission or
- 6 attempted commission of any lewd or lascivious act with the minor (Section
- 7 667.15(a)).
- 8 (9) Felony conviction of forgery, grand theft, or false pretenses as part of plan or
- 9 scheme to defraud an owner in connection with repairs to a structure damaged by a
- 10 natural disaster (Section 667.16(a)).
- 11 (10) Impersonating a peace officer during the commission of a felony (Section
- 12 667.17).
- 13 (11) Felony conviction of any specified offense, including, but not limited to,
- 14 forgery, grand theft, and false pretenses, as part of plan or scheme to defraud an
- 15 owner in connection with repairs to a structure damaged by natural disaster with
- 16 prior felony conviction of any of those offenses (Section 670(c)).
- 17 (12) Commission or attempted commission of a felony while armed with a
- 18 firearm (Section 17530).
- 19 (13) Personally using a deadly or dangerous weapon in the commission or
- 20 attempted commission of a felony (Section 17545(a)).
- 21 (14) Taking, damaging, or destroying any property in the commission or
- 22 attempted commission of a felony with the intent to cause that taking, damage, or
- 23 destruction when the loss exceeds fifty thousand dollars (\$50,000) (Section
- 24 12022.6(a)(1)).
- 25 (15) Transferring, lending, selling, or giving any assault weapon to a minor
- 26 (17539).
- 27 (16) Manufacturing, causing to be manufactured, distributing, transporting,
- 28 importing, keeping for sale, offering or exposing for sale, giving, or lending any
- 29 assault weapon while committing another crime (Section 12280(e)).
- 30 (17) Inducing, employing, or using a minor to commit a drug offense involving
- 31 heroin, cocaine, or cocaine base, or unlawfully furnishing one of these controlled
- 32 substances to a minor, upon the grounds of, or within, a church, playground, youth
- 33 center, child day care facility, or public swimming pool during business hours or
- 34 whenever minors are using the facility (Health and Safety Code Section
- 35 11353.1(a)(1)).
- 36 (18) Inducing another person to commit a drug offense as part of the drug
- 37 transaction for which the defendant is convicted when the value of the controlled
- 38 substance involved exceeds five hundred thousand dollars (\$500,000) (Health and
- 39 Safety Code Section 11356.5(a)(1)).
- 40 (19) Manufacturing, compounding, converting, producing, deriving, processing,
- 41 or preparing methamphetamine or phencyclidine (PCP), or attempting to commit
- 42 any of those acts, or possessing specified combinations of substances with the
- 43 intent to manufacture either methamphetamine or phencyclidine (PCP), when the

1 commission or attempted commission of the offense causes the death or great
2 bodily injury of another person other than an accomplice (Section 17575).

3 (20) Using a minor to commit a drug offense involving phencyclidine (PCP),
4 methamphetamine, or lysergic acid diethylamide (LSD), or unlawfully furnishing
5 one of these controlled substances to a minor, when the commission of the offense
6 occurs upon the grounds of, or within, a church, playground, youth center, child
7 day care facility, or public swimming pool during business hours or whenever
8 minors are using the facility (Health and Safety Code Section 11380.1(a)(1)).

9 (21) Possessing for sale, or selling, heroin, cocaine, cocaine base,
10 methamphetamine, or phencyclidine (PCP), when the commission of the offense
11 occurs upon the grounds of a public park, public library, or oceanfront beach
12 (Health and Safety Code Section 11380.5(a)(1)).

13 (22) Causing bodily injury or death to more than one victim in any one instance
14 of driving under the influence of any alcoholic beverage or drug (Section 17585).

15 (23) Fraudulently appropriating food stamps, electronically transferred benefits,
16 or authorizations to participate in the federal Food Stamp Program entrusted to a
17 public employee, or knowingly using, transferring, selling, purchasing, or
18 possessing, any of the same in an unauthorized manner, when the offense is
19 committed by means of an electronic transfer of benefits in an amount exceeding
20 fifty thousand dollars (\$50,000), but less than one hundred fifty thousand dollars
21 (\$150,000) (Welfare and Institutions Code Section 10980(h)(1)(A)).

22 **Comment.** Section 17523.015 continues former Section 666.7(a) without substantive change.
23 An erroneous reference to Section 12280(c) is corrected in paragraph (16). See Section 17505
24 (“great bodily injury” defined).

25 **Penal Code § 17523.020. Schedule 1-2-3**

26 17523.020. The provisions listed in this section imposing a sentence
27 enhancement of one, two, or three years of imprisonment in the state prison may
28 be referenced as “Schedule 1-2-3.”

29 (1) Commission or attempted commission of a felony hate crime (Section
30 422.75(a)).

31 (2) Commission or attempted commission of a felony against the property of a
32 public or private institution because the property is associated with a person or
33 group of identifiable race, color, religion, nationality, country of origin, ancestry,
34 gender, disability, or sexual orientation (Section 422.75(b)).

35 (3) Felony conviction of unlawfully causing a fire of any structure, forest land,
36 or property when the defendant has been previously convicted of arson or
37 unlawfully causing a fire, or when a firefighter, peace officer, or emergency
38 personnel suffered great bodily injury, or when the defendant proximately caused
39 great bodily injury to more than one victim, or caused multiple structures to burn
40 (Sections 452.1 and 17581).

41 (4) Carrying a loaded or unloaded firearm during the commission or attempted
42 commission of any felony street gang crime (Section 17536(a)).

1 (5) Personally using a deadly or dangerous weapon in the commission of
2 carjacking or attempted carjacking (Section 17545(b)).

3 (6) Being a principal in the commission or attempted commission of any
4 specified drug offense, knowing that another principal is personally armed with a
5 firearm (Section 17537(b)).

6 (7) Furnishing or offering to furnish a firearm to another for the purpose of
7 aiding, abetting, or enabling that person or any other person to commit a felony
8 (Section 17534).

9 (8) Selling, supplying, delivering, or giving possession or control of a firearm to
10 any person within a prohibited class or to a minor when the firearm is used in the
11 subsequent commission of a felony (Section 17535).

12 (9) Inducing, employing, or using a minor who is at least four years younger
13 than the defendant to commit a drug offense involving any specified controlled
14 substance, including, but not limited to, heroin, cocaine, and cocaine base, or
15 unlawfully providing one of these controlled substances to a minor (Health and
16 Safety Code Section 11353.1(a)(3)).

17 (10) Prior conviction of inducing, employing, or using a minor to commit a drug
18 offense involving cocaine base, or unlawfully providing cocaine base to a minor
19 that resulted in a prison sentence with a current conviction of the same offense
20 (Health and Safety Code Section 11353.4(a)).

21 (11) Prior conviction of inducing, employing, or using a minor to commit a drug
22 offense involving cocaine base, or unlawfully providing cocaine base to a minor
23 with a current conviction of the same offense involving a minor who is 14 years of
24 age or younger (Health and Safety Code Section 11353.4(b)).

25 (12) Inducing, employing, or using a minor who is at least four years younger
26 than the defendant to commit a drug offense involving any specified controlled
27 substance, including, but not limited to, phencyclidine (PCP), methamphetamine,
28 and lysergic acid diethylamide (LSD), or unlawfully providing one of these
29 controlled substances to a minor (Health and Safety Code Section 11380.1(a)(3)).

30 (13) Causing great bodily injury or a substantial probability that death could
31 result by the knowing disposal, transport, treatment, storage, burning, or
32 incineration of any hazardous waste at a facility without permits or at an
33 unauthorized point (Penal Code Sections 17583 and 17584).

34 **Comment.** Section 17523.020 continues former Section 666.7(b) without substantive change,
35 except that former paragraph (1) has not been continued. This reflects the increase in the term of
36 enhancement under Section 186.22(b)(1). See Section 17505 (“great bodily injury” defined).

37 **Penal Code § 17523.025. Schedule 1-2-5**

38 17523.025. The provisions listed in this section imposing a sentence
39 enhancement of one, two, or five years of imprisonment in the state prison may be
40 referenced as “Schedule 1-2-5.”

41 (1) Wearing a bullet-resistant body vest in the commission or attempted
42 commission of a violent offense (Section 17533).

1 (2) Commission or attempted commission of any specified sex offense while
2 armed with a firearm or deadly weapon (Section 17538).

3 **Comment.** Section 17523.025 continues former Section 666.7(c) without substantive change.

4 **Penal Code § 17523.030. Schedule 1 1/3-2-3**

5 17523.030. The provisions listed in this section imposing a sentence
6 enhancement of sixteen months, two years, or three years imprisonment in the
7 state prison may be referenced as “Schedule 1 1/3-2-3.”

8 (1) Knowing failure to register pursuant to Section 186.30 and subsequent
9 conviction or violation of Section 186.30, as specified (Section 186.33(b)(1)).

10 **Comment.** Section 17523.030 is new.

11 **Penal Code § 17523.035. Schedule 2**

12 17523.035. The provisions listed in this section imposing a sentence
13 enhancement of two years of imprisonment in the state prison may be referenced
14 as “Schedule 2.”

15 (1) Money laundering when the value of the transactions exceeds one hundred
16 fifty thousand dollars (\$150,000), but is less than one million dollars (\$1,000,000)
17 (Section 186.10(c)(1)(B)).

18 (2) Commission of two or more related felonies, a material element of which is
19 fraud or embezzlement, which involve a pattern of related felony conduct,
20 involving the taking of more than one hundred fifty thousand dollars (\$150,000)
21 (Section 186.11(a)(3)).

22 (3) Conviction of any specified felony sex offense that is committed after fleeing
23 to this state under specified circumstances (Section 289.5(d)).

24 (4) Prior conviction of any specified insurance fraud offense with current
25 conviction of willfully injuring, destroying, secreting, abandoning, or disposing of
26 any property insured against loss or damage by theft, embezzlement, or any
27 casualty with the intent to defraud or prejudice the insurer (Section 548(b)).

28 (5) Prior conviction of any specified insurance fraud offense with current
29 conviction of knowingly presenting any false or fraudulent insurance claim or
30 multiple claims for the same loss or injury, or knowingly causing or participating
31 in a vehicular collision for the purpose of presenting any false or fraudulent claim,
32 or providing false or misleading information or concealing information for purpose
33 of insurance fraud (Section 550(e)).

34 (6) Causing serious bodily injury as a result of knowingly causing or
35 participating in a vehicular collision or accident for the purpose of presenting any
36 false or fraudulent claim (Section 17586).

37 (7) Harming, obstructing, or interfering with any horse or dog being used by any
38 peace officer in the discharge or attempted discharge of his or her duties and, with
39 the intent to cause great bodily injury, personally causing great bodily injury to
40 any person other than an accomplice (Section 17587(b)).

1 (8) Prior conviction of any specified offense with current conviction of any of
2 those offenses committed against a person who is 65 years of age or older, blind, a
3 paraplegic or quadriplegic, or under 14 years of age (Section 667.9(b)).

4 (9) Prior conviction for sexual penetration with current conviction of the same
5 offense committed against a person who is 65 years of age or older, blind, deaf,
6 developmentally disabled, a paraplegic or quadriplegic, or under 14 years of age
7 (Section 667.10(a)).

8 (10) Showing child pornography to minor prior to or during the commission or
9 attempted commission of continuous sexual abuse of the minor (Section
10 667.15(b)).

11 (11) Primary care provider in a day care facility committing any specified felony
12 sex offense against a minor entrusted to his or her care (Section 674(a)).

13 (12) Commission of a felony offense while released from custody on bail or own
14 recognizance (Section 12022.1(b)).

15 (13) Taking, damaging, or destroying any property in the commission or
16 attempted commission of a felony with the intent to cause that taking, damage, or
17 destruction when the loss exceeds one hundred fifty thousand dollars (\$150,000)
18 (Section 12022.6(a)(2)).

19 (14) Inducing, employing, or using a minor to commit a drug offense involving
20 heroin, cocaine, or cocaine base, or unlawfully furnishing one of these controlled
21 substances to a minor, upon, or within 1,000 feet of, the grounds of a school
22 during school hours or whenever minors are using the facility (Health and Safety
23 Code Section 11353.1(a)(2)).

24 (15) Inducing another person to commit a drug offense as part of the drug
25 transaction for which the defendant is convicted when the value of the controlled
26 substance involved exceeds two million dollars (\$2,000,000) (Health and Safety
27 Code Section 11356.5(a)(2)).

28 (16) Manufacturing, compounding, converting, producing, deriving, processing,
29 or preparing methamphetamine or phencyclidine (PCP), or attempting to commit
30 any of those acts, or possessing specified combinations of substances with the
31 intent to manufacture either methamphetamine or phencyclidine (PCP), when the
32 commission or attempted commission of the crime occurs in a structure where any
33 child under 16 years of age is present (Health and Safety Code Section
34 11379.7(a)).

35 (17) Using a minor to commit a drug offense involving phencyclidine (PCP),
36 methamphetamine, or lysergic acid diethylamide (LSD), or unlawfully furnishing
37 one of these controlled substances to a minor, upon, or within 1,000 feet of, the
38 grounds of a school during school hours or whenever minors are using the facility
39 (Health and Safety Code Section 11380.1(a)(2)).

40 (18) Prior felony conviction of any specified insurance fraud offense with a
41 current conviction of making false or fraudulent statements concerning a workers'
42 compensation claim (Insurance Code Section 1871.4(c)).

1 (19) Prior felony conviction of making or causing to be made any knowingly
2 false or fraudulent statement of any fact material to the determination of the
3 premium, rate, or cost of any policy of workers' compensation insurance for the
4 purpose of reducing the premium, rate, or cost of the insurance with a current
5 conviction of the same offense (Insurance Code Section 11760(b)).

6 (20) Prior felony conviction of making or causing to be made any knowingly
7 false or fraudulent statement of any fact material to the determination of the
8 premium, rate, or cost of any policy of workers' compensation insurance issued or
9 administered by the State Compensation Insurance Fund for the purpose of
10 reducing the premium, rate, or cost of the insurance with a current conviction of
11 the same offense (Insurance Code Section 11880(b)).

12 (21) Fraudulently appropriating food stamps, electronically transferred benefits,
13 or authorizations to participate in the federal Food Stamp Program entrusted to a
14 public employee, or knowingly using, transferring, selling, purchasing, or
15 possessing, any of the same in an unauthorized manner, when the offense is
16 committed by means of an electronic transfer of benefits in an amount exceeding
17 one hundred fifty thousand dollars (\$150,000), but less than one million dollars
18 (\$1,000,000) (Welfare and Institutions Code Section 10980(h)(1)(B)).

19 **Comment.** Section 17523.035 continues former Section 666.7(d) without substantive change.
20 See Section 17505 ("great bodily injury" defined).

21 **Penal Code § 17523.040. Schedule 2-3-4**

22 17523.040. The provisions listed in this section imposing a sentence
23 enhancement of two, three, or four years of imprisonment in the state prison may
24 be referenced as "Schedule 2-3-4."

25 (1) Commission of a felony, other than a serious or violent felony, for the benefit
26 of, at the direction of, or in association with any criminal street gang, with the
27 specific intent to promote, further, or assist in any criminal conduct by gang
28 members (Section 186.22(b)(1)).

29 (2) Acting in concert with another person or aiding or abetting another person in
30 committing or attempting to commit a felony hate crime (Section 422.75(c)).

31 (3) Carrying a loaded or unloaded firearm together with a detachable shotgun
32 magazine, a detachable pistol magazine, a detachable magazine, or a belt- feeding
33 device during the commission or attempted commission of any felony street gang
34 crime (Section 17536(b)).

35 **Comment.** Section 17523.040 continues former Section 666.7(e) without substantive change,
36 except that paragraph (1) has been revised to reflect the increase in the term of enhancement
37 under Section 186.22(b)(1), and the downgrading of the penalty in Section 186.22(b)(2), from an
38 enhancement to a circumstance in aggravation.

1 **Penal Code § 17523.045. Schedule 2-3-5**

2 17523.045. The provisions listed in this section imposing a sentence
3 enhancement of two, three, or five years of imprisonment in the state prison may
4 be referenced as “Schedule 2-3-5.”

5 (1) Commission of two or more related felonies, a material element of which is
6 fraud or embezzlement, which involve a pattern of related felony conduct,
7 involving the taking of more than five hundred thousand dollars (\$500,000)
8 (Section 186.11(a)(2)).

9 **Comment.** Section 17523.045 continues former Section 666.7(f) without substantive change.

10 **Penal Code § 17523.050. Schedule 3**

11 17523.050. The provisions listed in this section imposing a sentence
12 enhancement of three years of imprisonment in the state prison may be referenced
13 as “Schedule 3.”

14 (1) Money laundering when the value of transactions exceeds one million dollars
15 (\$1,000,000), but is less than two million five hundred thousand dollars
16 (\$2,500,000) (Section 186.10(c)(1)(C)).

17 (2) Solicitation, recruitment, inducement, or coercion of minor to participate in
18 criminal street gang (Section 186.22(d)).

19 (3) Willfully mingling any poison or harmful substance which may cause death
20 if ingested, or which causes the infliction of great bodily injury on any person,
21 with any food, drink, medicine, or pharmaceutical product or willfully placing
22 such poison or harmful substance in any spring, well, reservoir, or public water
23 supply (Section 17576).

24 (4) Causing great bodily injury by willfully causing or permitting any elder or
25 dependent adult to suffer, or inflicting pain or mental suffering upon, or
26 endangering the health of, an elder or dependent adult when the victim is under 70
27 years of age (Section 17568(a)(1)).

28 (5) Maliciously driving or placing, in any tree, saw-log, shingle-bolt, or other
29 wood, any iron, steel, ceramic, or other substance sufficiently hard to injure saws
30 and causing bodily injury to another person other than an accomplice (Section
31 17582).

32 (6) Prior prison term for violent felony with current violent felony conviction
33 (Section 667.5(a)).

34 (7) Commission of any specified felony sex offense by a primary care provider
35 in a day care facility against a minor entrusted to his or her care while voluntarily
36 acting in concert with another (Section 674(b)).

37 (8) Commission or attempted commission of a felony while armed with an
38 assault weapon or a machinegun (Section 17531).

39 (9) Taking, damaging, or destroying any property in the commission or
40 attempted commission of a felony with the intent to cause that taking, damage, or
41 destruction when the loss exceeds one million dollars (\$1,000,000) (Section
42 12022.6(a)(3)).

1 (10) Personally inflicting great bodily injury on any person other than an
2 accomplice in the commission or attempted commission of a felony (Section
3 17565).

4 (11) Administering by injection, inhalation, ingestion, or any other means, any
5 specified controlled substance against the victim's will by means of force,
6 violence, or fear of immediate and unlawful bodily injury to the victim or another
7 person for the purpose of committing a felony (Section 17577).

8 (12) Commission of any specified sex offense with knowledge that the defendant
9 has acquired immune deficiency syndrome (AIDS) or with the knowledge that he
10 or she carries antibodies of the human immunodeficiency virus at the time of the
11 commission of the offense (Section 17579).

12 (13) Inducing another person to commit a drug offense as part of the drug
13 transaction for which the defendant is convicted when the value of the controlled
14 substance involved exceeds five million dollars (\$5,000,000) (Health and Safety
15 Code Section 11356.5(a)(3)).

16 (14) Prior conviction of any specified drug offense with current conviction of
17 any specified drug offense (Health and Safety Code Section 11370.2(a)-(c)).

18 (15) Commission of any specified drug offense involving a substance containing
19 heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine
20 (PCP), when the substance exceeds one kilogram or 30 liters (Health and Safety
21 Code Section 11370.4(a)(1) and (b)(1)).

22 (16) Manufacturing, compounding, converting, producing, deriving, processing,
23 or preparing any substance containing amphetamine, methamphetamine, or
24 phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of
25 those acts, when the substance exceeds three gallons or one pound (Health and
26 Safety Code Section 11379.8(a)(1)).

27 (17) Four or more prior convictions of specified alcohol-related vehicle offenses
28 with current conviction of driving under the influence and causing great bodily
29 injury (Vehicle Code Section 23566(c)).

30 (18) Fraudulently appropriating food stamps, electronically transferred benefits,
31 or authorizations to participate in the federal Food Stamp Program entrusted to a
32 public employee, or knowingly using, transferring, selling, purchasing, or
33 possessing, any of the same in an unauthorized manner, when the offense is
34 committed by means of an electronic transfer of benefits in an amount exceeding
35 one million dollars (\$1,000,000), but less than two million five hundred thousand
36 dollars (\$2,500,000) (Welfare and Institutions Code Section 10980(h)(1)(C)).

37 **Comment.** Section 17523.050 continues former Section 666.7(g) without substantive change.,
38 except that paragraph (2) is revised to reflect the elimination of an enhancement under former
39 Section 186.22(b)(5) and the addition of an enhancement in Section 186.26(d), and paragraph
40 (17) is revised to conform to a numbering change. See Section 17505 ("great bodily injury"
41 defined).

1 **Penal Code § 17523.055. Schedule 3-4-5**

2 17523.055. The provisions listed in this section imposing a sentence
3 enhancement of three, four, or five years of imprisonment in the state prison may
4 be referenced as “Schedule 3-4-5.”

5 (1) Commission of felony arson with prior conviction of arson or unlawfully
6 starting a fire, or causing great bodily injury to a firefighter, peace officer, other
7 emergency personnel, or multiple victims, or causing the burning of multiple
8 structures, or using an accelerator or ignition delay device (Sections 451.1 and
9 17580).

10 (2) Commission or attempted commission of any specified drug offense while
11 personally armed with a firearm (Section 17537(a)).

12 (3) Personally inflicting great bodily injury under circumstances involving
13 domestic violence in the commission or attempted commission of a felony
14 (Section 17570).

15 (4) Commission of any specified drug offense involving cocaine base, heroin, or
16 methamphetamine, or a conspiracy to commit any of those offenses, upon the
17 grounds of, or within 1,000 feet of, a school during school hours or when minors
18 are using the facility (Health and Safety Code Section 11353.6(b)).

19 (5) Commission of any specified drug offense involving cocaine base, heroin, or
20 methamphetamine, or a conspiracy to violate any of those offenses, involving a
21 minor who is at least four years younger than the defendant (Health and Safety
22 Code Section 11353.6(c)).

23 **Comment.** Section 17523.055 continues former Section 666.7(h) without substantive change.
24 See Section 17505 (“great bodily injury” defined).

25 **Penal Code § 17523.060. Schedule 3-4-10**

26 17523.060. The provisions listed in this section imposing a sentence
27 enhancement of three, four, or 10 years of imprisonment in the state prison may be
28 referenced as “Schedule 3-4-10.”

29 (1) Commission or attempted commission of any felony while armed with a
30 firearm and in the immediate possession of ammunition for the firearm designed
31 primarily to penetrate metal or armor (Section 17532).

32 (2) Commission or attempted commission of any specified sex offense while
33 using a firearm or deadly weapon (Section 17550).

34 (3) Commission or attempted commission of a felony while personally using a
35 firearm (Section 17546(a)).

36 (4) Commission or attempted commission of any specified drug offense while
37 personally using a firearm (Section 17548).

38 **Comment.** Section 17523.060 continues former Section 666.7(i) without substantive change.

1 **Penal Code § 17523.065. Schedule 4**

2 17523.065. The provisions listed in this section imposing a sentence
3 enhancement of four years of imprisonment in the state prison may be referenced
4 as “Schedule 4.”

5 (1) Money laundering when the value of transactions exceeds two million five
6 hundred thousand dollars (\$2,500,000) (Section 186.10(c)(1)(D)).

7 (2) Prior conviction of willfully inflicting upon a child any cruel or inhuman
8 corporal punishment or injury resulting in a traumatic condition with current
9 conviction of that offense (Section 273d(b)).

10 (3) Taking, damaging, or destroying any property in the commission or
11 attempted commission of a felony with the intent to cause that taking, damage, or
12 destruction when the loss exceeds two million five hundred thousand dollars
13 (\$2,500,000) (Section 12022.6(a)(4)).

14 (4) Personally, willfully, and maliciously discharging a firearm from a motor
15 vehicle at another person other than an occupant of a motor vehicle and causing a
16 victim to suffer paralysis or paraparesis of a major body part (Section 17553(a)).

17 (5) Personally, willfully, and maliciously discharging a firearm from a motor
18 vehicle at another occupied motor vehicle and causing a victim to suffer paralysis
19 or paraparesis of a major body part (Section 17553(b)).

20 (6) Willfully causing or permitting any child to suffer, or inflicting on the child
21 unjustifiable physical pain or injury that results in death under circumstances or
22 conditions likely to produce great bodily harm or death, or, having the care or
23 custody of any child, willfully causing or permitting that child to be injured or
24 harmed under circumstances likely to produce great bodily harm or death, when
25 that injury or harm results in death (Section 17572).

26 (7) Fraudulently appropriating food stamps, electronically transferred benefits,
27 or authorizations to participate in the federal Food Stamp Program entrusted to a
28 public employee, or knowingly using, transferring, selling, purchasing, or
29 possessing, any of the same in an unauthorized manner, when the offense is
30 committed by means of an electronic transfer of benefits in an amount exceeding
31 two million five hundred thousand dollars (\$2,500,000) (Welfare and Institutions
32 Code Section 10980(h)(1)(D)).

33 (8) Execution of a scheme or artifice to defraud the Medi-Cal program or any
34 other health care program administered by the State Department of Health
35 Services or its agents or contracts, or to obtain under false or fraudulent pretenses,
36 representations, or promises any property owned by or under the custody of the
37 Medi-Cal program or any health care program administered by the department, its
38 agents, or contractors under circumstances likely to cause or that do cause two or
39 more persons great bodily injury. (Section 17588).

40 **Comment.** Section 17523.065 continues former Section 666.7(j) without substantive change,
41 except that paragraph (8) is added to reference a previously excluded enhancement.

1 **Penal Code § 17523.070. Schedule 4-5-6**

2 17523.070. The provisions listed in this section imposing a sentence
3 enhancement of four, five, or six years of imprisonment in the state prison may be
4 referenced as “Schedule 4-5-6.”

5 (1) Infliction of great bodily injury on a child under five years old in the
6 commission or attempted commission of a felony (Section 17571).

7 **Comment.** Section 17523.070 is new. See Section 17505 (“great bodily injury” defined).

8 **Penal Code § 17523.075. Schedule 4-5-10**

9 17523.075. The provisions listed in this section imposing a sentence
10 enhancement of four, five, or 10 years of imprisonment in the state prison may be
11 referenced as “Schedule 4-5-10.”

12 (1) Commission or attempted commission of a felony while personally using a
13 firearm with prior conviction of carjacking or attempted carjacking (Section
14 17546(b)).

15 **Comment.** Section 17523.075 continues former Section 666.7(k) without substantive change.

16 **Penal Code § 17523.080. Schedule 5**

17 17523.080. The provisions listed in this section imposing a sentence
18 enhancement of five years of imprisonment in the state prison may be referenced
19 as “Schedule 5.”

20 (1) Using sex offender registration information to commit a felony (Sections
21 290(q)(1) and 290.4(b)(1)).

22 (2) Causing great bodily injury by willfully causing or permitting any elder or
23 dependent adult to suffer, or inflicting pain or mental suffering upon, or
24 endangering the health of, an elder or dependent adult when the victim is 70 years
25 of age or older (Section 17568(a)(2)).

26 (3) Causing death by willfully causing or permitting any elder or dependent adult
27 to suffer, or inflicting pain or mental suffering upon, or endangering the health of,
28 an elder or dependent adult when the victim is under 70 years of age (Section
29 17568(b)(1)).

30 (4) Two prior felony convictions of knowingly causing or participating in a
31 vehicular collision or accident for the purpose of presenting any false or fraudulent
32 claim with current conviction of the same (Section 550(f)).

33 (5) Prior conviction of a serious felony with current conviction of a serious
34 felony (Section 667(a)(1)).

35 (6) Prior conviction of any specified sex offense with current conviction of lewd
36 and lascivious acts with a child under 14 years of age (Section 667.51(a)).

37 (7) Prior conviction of any specified sex offense with current conviction of any
38 of those sex offenses (Section 667.6(a)).

1 (8) Kidnapping or carrying away any child under 14 years of age with the intent
2 to permanently deprive the parent or legal guardian custody of that child (Section
3 667.85).

4 (9) Personally inflicting great bodily injury on any person other than an
5 accomplice in the commission or attempted commission of a felony that causes the
6 victim to become comatose due to a brain injury or to suffer paralysis of a
7 permanent nature (Section 17566).

8 (10) Personally inflicting great bodily injury on another person who is 70 years
9 of age or older other than an accomplice in the commission or attempted
10 commission of a felony (Section 17567).

11 (11) Inflicting great bodily injury on any victim in the commission or attempted
12 commission of any specified sex offense (Section 17578).

13 (12) Personally and intentionally inflicting injury upon a pregnant woman during
14 the commission or attempted commission of a felony that results in the termination
15 of the pregnancy when the defendant knew or reasonably should have known that
16 the victim was pregnant (Section 17569).

17 (13) Using information disclosed to the licensee of a community care facility by
18 a prospective client regarding his or her status as a sex offender to commit a felony
19 (Health and Safety Code Section 1522.01(c)).

20 (14) Commission of any specified drug offense involving a substance containing
21 heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine
22 (PCP), when the substance exceeds 4 kilograms or 100 liters (Health and Safety
23 Code Section 11370.4(a)(2) and (b)(2)).

24 (15) Manufacturing, compounding, converting, producing, deriving, processing,
25 or preparing methamphetamine or phencyclidine (PCP), or attempting to commit
26 any of those acts, or possessing specified combinations of substances with the
27 intent to manufacture either methamphetamine or phencyclidine (PCP), when the
28 commission of the crime causes any child under 16 years of age to suffer great
29 bodily injury (Section 17574).

30 (16) Manufacturing, compounding, converting, producing, deriving, processing,
31 or preparing any substance containing amphetamine, methamphetamine, or
32 phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of
33 those acts, when the substance exceeds 10 gallons or three pounds (Section
34 11379.8(a)(2)).

35 (17) Fleeing the scene of the crime after commission of vehicular manslaughter
36 (Vehicle Code Section 20001(c)).

37 (18) Commission of a serious felony for the benefit of, at the direction of, or in
38 association with any criminal street gang, with the specific intent to promote,
39 further, or assist in any criminal conduct by gang members (Section 186.22(b)(1)).

40 **Comment.** Section 17523.080 continues former Section 666.7(l) without substantive change,
41 except that paragraph (18) has been added to refer to a new enhancement. See Section 17505
42 (“great bodily injury” defined).

1 **Penal Code § 17523.085. Schedule 5-6-10**

2 17523.085. The provisions listed in this section imposing a sentence
3 enhancement of five, six, or 10 years of imprisonment in the state prison may be
4 referenced as “Schedule 5-6-10.”

5 (1) Discharging a firearm at an occupied motor vehicle in the commission or
6 attempted commission of a felony which caused great bodily injury or death to
7 another person (Section 17551).

8 (2) Commission or attempted commission of a felony while personally using an
9 assault weapon or a machinegun (Section 17547).

10 (3) Discharging a firearm from a motor vehicle in the commission or attempted
11 commission of a felony with the intent to inflict great bodily injury or death and
12 causing great bodily injury or death (Section 17552).

13 **Comment.** Section 17523.085 continues former Section 666.7(m) without substantive change.
14 See Section 17505 (“great bodily injury” defined).

15 **Penal Code § 17523.090. Schedule 7**

16 17523.090. The provisions listed in this section imposing a sentence
17 enhancement of seven years of imprisonment in the state prison may be referenced
18 as “Schedule 7.”

19 (1) Causing death by willfully causing or permitting any elder or dependent adult
20 to suffer, or inflicting pain or mental suffering upon, or endangering the health of,
21 an elder or dependent adult when the victim is 70 years of age or older (Section
22 17568(b)(2)).

23 **Comment.** Section 17523.090 continues former Section 666.7(n) without substantive change.

24 **Penal Code § 17523.095. Schedule 9**

25 17523.095. The provisions listed in this section imposing a sentence
26 enhancement of nine years of imprisonment in the state prison may be referenced
27 as “Schedule 9.”

28 (1) Kidnapping victim for purpose of committing any specified felony sex
29 offense (Section 667.8(a)).

30 **Comment.** Section 17523.095 continues former Section 666.7(o) without substantive change.

31 **Penal Code § 17523.100. Schedule 10**

32 17523.100. The provisions listed in this section imposing a sentence
33 enhancement of 10 years of imprisonment in the state prison may be referenced as
34 “Schedule 10.”

35 (1) Two or more prior prison terms for any specified sex offense with current
36 conviction of any of those sex offenses (Section 667.6(b)).

37 (2) Commission or attempted commission of any specified felony offense while
38 personally using a firearm (Section 17549(b)).

1 (3) Commission of any specified drug offense involving a substance containing
2 heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine
3 (PCP), when the substance exceeds 10 kilograms or 200 liters (Health and Safety
4 Code Section 11370.4(a)(3) and (b)(3)).

5 (4) Manufacturing, compounding, converting, producing, deriving, processing,
6 or preparing any substance containing amphetamine, methamphetamine, or
7 phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of
8 those acts, when the substance exceeds 25 gallons or 10 pounds (Health and Safety
9 Code Section 11379.8(a)(3)).

10 (5) Commission of a violent felony for the benefit of, at the direction of, or in
11 association with any criminal street gang, with the specific intent to promote,
12 further, or assist in any criminal conduct by gang members (Section 186.22(b)(1)).

13 **Comment.** Section 17523.100 continues former Section 666.7(p) without substantive change,,
14 except that paragraph (5) has been added to refer to a new enhancement.

15 **Penal Code § 17523.105. Schedule 15**

16 17523.105. The provisions listed in this section imposing a sentence
17 enhancement of 15 years of imprisonment in the state prison may be referenced as
18 “Schedule 15.”

19 (1) Kidnapping victim under 14 years of age for purpose of committing any
20 specified felony sex offense (Section 667.8(b)).

21 (2) Commission of any specified drug offense involving a substance containing
22 heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine
23 (PCP), when the substance exceeds 20 kilograms or 400 liters (Health and Safety
24 Code Section 11370.4(a)(4) and (b)(4)).

25 (3) Manufacturing, compounding, converting, producing, deriving, processing,
26 or preparing any substance containing amphetamine, methamphetamine, or
27 phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of
28 those acts, when the substance exceeds 105 gallons or 44 pounds (Health and
29 Safety Code Section 11379.8(a)(4)).

30 **Comment.** Section 17523.105 continues former Section 666.7(q) without substantive change.

31 **Penal Code § 17523.110. Schedule 20**

32 17523.110. The provisions listed in this section imposing a sentence
33 enhancement of 20 years of imprisonment in the state prison may be referenced as
34 “Schedule 20.”

35 (1) Intentionally and personally discharging a firearm in the commission or
36 attempted commission of any specified felony offense (Section 17549(c)).

37 (2) Commission of any specified drug offense involving a substance containing
38 heroin, cocaine base, or cocaine, when the substance exceeds 40 kilograms (Health
39 and Safety Code Section 11370.4(a)(5)).

40 **Comment.** Section 17523.110 continues former Section 666.7(r) without substantive change.

1 **Penal Code § 17523.115. Schedule 25**

2 17523.115. The provisions listed in this section imposing a sentence
3 enhancement of 25 years of imprisonment in the state prison may be referenced as
4 “Schedule 25.”

5 (1) Commission of any specified drug offense involving a substance containing
6 heroin, cocaine base, or cocaine, when the substance exceeds 80 kilograms (Health
7 and Safety Code Section 11370.4(a)(6)).

8 **Comment.** Section 17523.115 continues former Section 666.7(s) without substantive change.

9 **Penal Code § 17523.120. Schedule 25-Life**

10 17523.120. The provisions listed in this section imposing a sentence
11 enhancement of 25 years to life imprisonment in the state prison may be
12 referenced as “Schedule 25-Life.”

13 (1) Intentionally and personally discharging a firearm in the commission or
14 attempted commission of any specified felony offense and proximately causing
15 great bodily injury to any person other than an accomplice (Section 17549(d)).

16 **Comment.** Section 17523.120 continues former Section 666.7(t) without substantive change.
17 See Section 17505 (“great bodily injury” defined).

18 **CHAPTER 2. WEAPON ENHANCEMENTS**

19 **Article 1. General Provisions**

20 **Penal Code § 17525. Limit on multiple enhancements**

21 17525. When two or more enhancements may be imposed for being armed with
22 or using a dangerous or deadly weapon or a firearm in the commission of a single
23 offense, only the greatest of those enhancements shall be imposed for that offense.
24 This section does not limit the imposition of any other enhancements applicable to
25 that offense, including an enhancement for the infliction of great bodily injury.

26 **Comment.** Section 17525 continues former Section 1170.1(f) without substantive change. See
27 Section 17505 (“great bodily injury” defined).

28 **Penal Code § 17526. Firearm deemed nuisance**

29 17526. When a person is found to have used a deadly or dangerous weapon in
30 the commission or attempted commission of a felony, resulting in an enhancement
31 pursuant to this title, and the weapon is owned by that person, the court shall order
32 that the weapon be deemed a nuisance and disposed of in the manner provided in
33 Section 12028.

34 **Comment.** Section 17526 generalizes former Sections 12022(b)(3), 12022.5(e), and
35 12022.53(k). The generalized rule is consistent with other sections providing for confiscation of a
36 weapon used in a crime. See Sections 188.22a(f), 245e(d), 245.3, 417.6, 833.5(e), 12028,
37 12028.5(e), 12036(c).

1 ☞ **Note.** The nuisance provision found in Sections 12022(b)(3), 12022.5(e), and 12022.53(k) has
2 been generalized. The nuisance rule would then apply to weapon enhancements under Sections
3 12022.3(a) (use of firearm or deadly weapon in sex offense), 12022.55 (discharge of weapon
4 from motor vehicle causing great bodily injury or death), and 12022.9 (willful and malicious
5 discharge of weapon resulting in paralysis or paraparesis). The Commission would like to receive
6 input on the merit of making this change.

7 Article 2. Enhancement for Possession or Provision of Weapon

8 **Penal Code § 17530. Armed with firearm in commission of felony**

9 17530. Any person who is armed with a firearm in the commission or attempted
10 commission of a felony shall, upon conviction of that felony or attempted felony,
11 in addition and consecutive to the punishment prescribed for the felony or
12 attempted felony of which he or she has been convicted, be punished by an
13 additional term of one year, unless the arming is an element of the offense of
14 which he or she was convicted. This additional term applies to any person who is a
15 principal in the commission or attempted commission of a felony if one or more of
16 the principals is armed with a firearm, whether or not the person is personally
17 armed with a firearm.

18 **Comment.** Section 17530 is added as part of a nonsubstantive reorganization of sentence
19 enhancements for crimes that involve a weapon. This section continues former Section
20 12022(a)(1) without substantive change.

21 **Penal Code § 17531. Armed with assault weapon or machine gun in commission of felony**

22 17531. Any person who is armed with an assault weapon, as defined in Section
23 12276 or Section 12276.1, or a machinegun, as defined in Section 12200, in the
24 commission or attempted commission of a felony shall, upon conviction of that
25 felony or attempted felony, in addition and consecutive to the punishment
26 prescribed for the felony or attempted felony of which he or she has been
27 convicted, be punished by an additional term of three years, whether or not the
28 arming is an element of the offense of which he or she was convicted. The
29 additional term provided in this paragraph applies to any person who is a principal
30 in the commission or attempted commission of a felony if one or more of the
31 principals is armed with an assault weapon or machinegun whether or not the
32 person is personally armed with an assault weapon or machinegun.

33 **Comment.** Section 17531 is added as part of a nonsubstantive reorganization of sentence
34 enhancements for crimes that involve a weapon. This section restates former Section 12022(a)(2)
35 without substantive change. The first sentence incorporates part of former Section 12022(a)(1)
36 that is implicitly incorporated in former Section 12022(a)(2).

37 ☞ **Note.** The first sentence has been restated to incorporate substantive elements from Section
38 12022(a)(1), which are implicitly incorporated in Section 12022(a)(2). The Commission believes
39 that this is a nonsubstantive change, but would like to receive comments on this point.

1 **Penal Code § 17532. Possession of armor-piercing ammunition in commission of felony**

2 17532. Any person who, while armed with a firearm in the commission or
3 attempted commission of any felony, has in his or her immediate possession
4 ammunition for the firearm designed primarily to penetrate metal or armor, shall
5 upon conviction of that felony or attempted felony, in addition and consecutive to
6 the punishment prescribed for the felony or attempted felony, be punished by an
7 additional term of three, four, or 10 years.

8 **Comment.** Section 17532 is added as part of a nonsubstantive reorganization of sentence
9 enhancements for crimes that involve a weapon. This section continues the first sentence of
10 former Section 12022.2(a) without change.

11 **Penal Code § 17533. Body vest worn in commission of felony**

12 17533. (a) Any person who wears a body vest in the commission or attempted
13 commission of a violent offense, as defined in subdivision (b) of Section 12021.1,
14 shall, upon conviction of that felony or attempted felony, in addition and
15 consecutive to the punishment prescribed for the felony or attempted felony of
16 which he or she has been convicted, be punished by an additional term of one, two,
17 or five years.

18 (b) As used in this section, “body vest” means any bullet-resistant material
19 intended to provide ballistic and trauma protection for the wearer.

20 **Comment.** Section 17533 is added as part of a nonsubstantive reorganization of sentence
21 enhancements for crimes that involve a weapon. Subdivision (a) continues the first sentence of
22 former Section 12022.2(b) without change. Subdivision (b) continues former Section 12022.2(c)
23 without change.

24 **Penal Code § 17534. Furnishing firearm in furtherance of felony**

25 17534. Any person who, during the commission or attempted commission of a
26 felony, furnishes or offers to furnish a firearm to another for the purpose of aiding,
27 abetting, or enabling that person or any other person to commit a felony shall, in
28 addition and consecutive to the punishment prescribed by the felony or attempted
29 felony of which the person has been convicted, be punished by an additional term
30 of one, two, or three years in the state prison.

31 **Comment.** Section 17534 is added as part of a nonsubstantive reorganization of sentence
32 enhancements for crimes that involve a weapon. This section continues the first sentence of
33 former Section 12022.4 without change.

34 **Penal Code § 17535. Unlawful provision of weapon used in commission of felony**

35 17535. If both of the following circumstances apply, an additional term of
36 imprisonment in the state prison for one, two, or three years shall be imposed in
37 addition and consecutive to the sentence prescribed.

38 (a) A violation of paragraph (2) of subdivision (a) or subdivision (b) of Section
39 12072.

1 (b) The firearm transferred in violation of paragraph (2) of subdivision (a) or
2 subdivision (b) of Section 12072 is used in the subsequent commission of a felony
3 for which a conviction is obtained and the prescribed sentence is imposed.

4 **Comment.** Section 17535 is added as part of a nonsubstantive reorganization of sentence
5 enhancements for crimes that involve a weapon. This section continues former Section
6 12072(g)(4) without substantive change.

7 **Penal Code § 17536. Carrying firearm in commission of street gang crime**

8 17536. (a) Every person who carries a loaded or unloaded firearm on his or her
9 person, or in a vehicle, during the commission or attempted commission of any
10 street gang crimes described in subdivision (a) or (b) of Section 186.22, shall,
11 upon conviction of the felony or attempted felony, be punished by an additional
12 term of imprisonment in the state prison for one, two, or three years in the court's
13 discretion.

14 (b) Every person who carries a loaded or unloaded firearm together with a
15 detachable shotgun magazine, a detachable pistol magazine, a detachable
16 magazine, or a belt-feeding device on his or her person, or in a vehicle, during the
17 commission or attempted commission of any street gang crimes described in
18 subdivision (a) or (b) of Section 186.22, shall, upon conviction of the felony or
19 attempted felony, be punished by an additional term of imprisonment in the state
20 prison for two, three, or four years in the court's discretion.

21 (c) As used in this section, the following definitions apply:

22 (1) "Detachable magazine" means a device that is designed or redesigned to do
23 all of the following:

24 (A) To be attached to a rifle that is designed or redesigned to fire ammunition.

25 (B) To be attached to, and detached from, a rifle that is designed or redesigned to
26 fire ammunition.

27 (C) To feed ammunition continuously and directly into the loading mechanism
28 of a rifle that is designed or redesigned to fire ammunition.

29 (2) "Detachable pistol magazine" means a device that is designed or redesigned
30 to do all of the following:

31 (A) To be attached to a semiautomatic firearm that is not a rifle or shotgun that is
32 designed or redesigned to fire ammunition.

33 (B) To be attached to, and detached from, a firearm that is not a rifle or shotgun
34 that is designed or redesigned to fire ammunition.

35 (C) To feed ammunition continuously and directly into the loading mechanism
36 of a firearm that is not a rifle or a shotgun that is designed or redesigned to fire
37 ammunition.

38 (3) "Detachable shotgun magazine" means a device that is designed or
39 redesigned to do all of the following:

40 (A) To be attached to a firearm that is designed or redesigned to fire a fixed
41 shotgun shell through a smooth or rifled bore.

1 (B) To be attached to, and detached from, a firearm that is designed or
2 redesigned to fire a fixed shotgun shell through a smooth bore.

3 (C) To feed fixed shotgun shells continuously and directly into the loading
4 mechanism of a firearm that is designed or redesigned to fire a fixed shotgun shell.

5 (4) “Belt-feeding device” means a device that is designed or redesigned to
6 continuously feed ammunition into the loading mechanism of a machinegun or a
7 semiautomatic firearm.

8 (5) “Rifle” has the same meaning as specified in paragraph (20) of subdivision
9 (c) of Section 12020.

10 (6) “Shotgun” has the same meaning as specified in paragraph (21) of
11 subdivision (c) of Section 12020.

12 **Comment.** Section 17536 is added as part of a nonsubstantive reorganization of sentence
13 enhancements for crimes that involve a weapon. This section continues former Section 12021.5
14 without change, except that the second and third sentences of subdivisions (a) and (b) are not
15 continued in this section. They are generalized without substantive change in Section 17520.

16 **Penal Code § 17537. Armed with firearm in commission of drug offenses**

17 17537. (a) Any person who is personally armed with a firearm in the
18 commission or attempted commission of a violation of Section 11351, 11351.5,
19 11352, 11366.5, 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the
20 Health and Safety Code, shall, upon conviction of that offense and in addition and
21 consecutive to the punishment prescribed for that offense of which he or she has
22 been convicted, be punished by an additional term of imprisonment in the state
23 prison for three, four, or five years in the court’s discretion.

24 (b) Any person who is not personally armed with a firearm who, knowing that
25 another principal is personally armed with a firearm, is a principal in the
26 commission or attempted commission of an offense specified in subdivision (a),
27 shall, upon conviction of that offense, be punished by an additional term of one,
28 two, or three years in the court’s discretion.

29 (c) Notwithstanding any other provision of law, the court may strike the
30 additional punishment for the enhancements provided in subdivision (a) or (b) in
31 an unusual case where the interests of justice would best be served, if the court
32 specifies on the record and enters into the minutes the circumstances indicating
33 that the interests of justice would best be served by that disposition.

34 **Comment.** Section 17537 is added as part of a nonsubstantive reorganization of sentence
35 enhancements for crimes that involve a weapon. This section continues former Section 12022(c)-
36 (d), (f) without change, except that the second and third sentences of subdivisions (c) and (d) are
37 not continued in this section. They are generalized without substantive change in Section 17520.

38 **Penal Code § 17538. Armed with firearm or deadly weapon in commission of sexual offenses**

39 17538. For each violation or attempted violation of Section 261, 262, 264.1, 286,
40 288, 288a, or 289, and in addition to the sentence provided, any person shall

1 receive a one-, two-, or five-year enhancement if the person is armed with a
2 firearm or a deadly weapon.

3 **Comment.** Section 17538 is added as part of a nonsubstantive reorganization of sentence
4 enhancements for crimes that involve a weapon. This section restates the first sentence of former
5 Section 12022.3(b) without change.

6 **Penal Code § 17539. Unlawful provision of assault weapon to minor**

7 17539. In addition and consecutive to the punishment imposed under subdivision
8 (a) of Section 12280, any person who transfers, lends, sells, or gives any assault
9 weapon to a minor in violation of subdivision (a) of Section 12280 shall receive an
10 enhancement of one year.

11 **Comment.** Section 17539 is added as part of a nonsubstantive reorganization of sentence
12 enhancements for crimes that involve a weapon. This section continues former Section
13 12280(a)(2) without substantive change.

14 Article 3. Enhancement for Use of Weapon

15 **Penal Code § 17545. Use of deadly or dangerous weapon in commission of felony**

16 17545. (a) Any person who personally uses a deadly or dangerous weapon in the
17 commission or attempted commission of a felony shall, upon conviction of that
18 felony or attempted felony, in addition and consecutive to the punishment
19 prescribed for the felony or attempted felony of which he or she has been
20 convicted, be punished by an additional term of one year, unless use of a deadly or
21 dangerous weapon is an element of the offense of which he or she was convicted.

22 (b) If the person described in subdivision (a) has been convicted of carjacking or
23 attempted carjacking, the additional term shall be one, two, or three years.

24 **Comment.** Section 17545 is added as part of a nonsubstantive reorganization of sentence
25 enhancements for crimes that involve a weapon. This section continues former Section
26 12022(b)(1)-(2) without substantive change. Former subdivisions (b)(1) and (2) have been
27 redesignated as subdivisions (a) and (b), respectively.

28 **Penal Code § 17546. Personal use of firearm in commission of felony**

29 17546. (a) Any person who personally uses a firearm in the commission or
30 attempted commission of a felony shall, upon conviction of that felony or
31 attempted felony, in addition and consecutive to the punishment prescribed for the
32 felony or attempted felony of which he or she has been convicted, be punished by
33 an additional term of imprisonment in the state prison for three, four, or 10 years,
34 unless use of a firearm is an element of the offense of which he or she was
35 convicted.

36 (b) If the person described in subdivision (a) has been convicted of carjacking or
37 attempted carjacking, the additional term shall be four, five, or 10 years.

38 (c) The additional term provided by this section may be imposed in cases of
39 assault with a firearm under paragraph (2) of subdivision (a) of Section 245, or

1 assault with a deadly weapon which is a firearm under Section 245, or murder if
2 the killing was perpetrated by means of shooting a firearm from a motor vehicle,
3 intentionally at another person outside of the vehicle with the intent to inflict great
4 bodily injury or death.

5 **Comment.** Section 17546 is added as part of a nonsubstantive reorganization of sentence
6 enhancements for crimes that involve a weapon. Subdivision (a) continues former Section
7 12022.5(a)(1) without change. Subdivision (b) continues the first sentence of former Section
8 12022.5(a)(2) without change. Subdivision (c) continues former Section 12022.5(d) without
9 change. See Section 17505 (“great bodily injury” defined).

10 **Penal Code § 17547. Personal use of assault weapon or machine gun in commission of felony**

11 17547. (a) Any person who personally uses an assault weapon, as specified in
12 Section 12276 or Section 12276.1, or a machinegun, as defined in Section 12200,
13 in the commission or attempted commission of a felony, shall, upon conviction of
14 that felony or attempted felony, in addition and consecutive to the sentence
15 prescribed for the felony or attempted felony, be punished by an additional term of
16 imprisonment in the state prison for five, six, or 10 years.

17 (b) The additional term provided by this section may be imposed in cases of
18 assault with a firearm under paragraph (2) of subdivision (a) of Section 245, or
19 assault with a deadly weapon which is a firearm under Section 245, or murder if
20 the killing was perpetrated by means of shooting a firearm from a motor vehicle,
21 intentionally at another person outside of the vehicle with the intent to inflict great
22 bodily injury or death.

23 **Comment.** Section 17547 is added as part of a nonsubstantive reorganization of sentence
24 enhancements for crimes that involve a weapon. Subdivision (a) continues former Section
25 12022.5(b)(2) without change. Subdivision (b) continues former Section 12022.5(d) without
26 change. See Section 17505 (“great bodily injury” defined).

27 **Penal Code § 17548. Personal use of firearm in commission of drug offenses**

28 17548. (a) Any person who personally uses a firearm in the commission or
29 attempted commission of a violation of Section 11351, 11351.5, 11352, 11366.5,
30 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety
31 Code, shall, upon conviction of that offense and in addition and consecutive to the
32 punishment prescribed for the offense of which he or she has been convicted, be
33 punished by an additional term of imprisonment in the state prison for three, four,
34 or 10 years in the court’s discretion.

35 (b) The additional term provided by this section may be imposed in cases of
36 assault with a firearm under paragraph (2) of subdivision (a) of Section 245, or
37 assault with a deadly weapon which is a firearm under Section 245, or murder if
38 the killing was perpetrated by means of shooting a firearm from a motor vehicle,
39 intentionally at another person outside of the vehicle with the intent to inflict great
40 bodily injury or death.

41 **Comment.** Section 17548 is added as part of a nonsubstantive reorganization of sentence
42 enhancements for crimes that involve a weapon. Subdivision (a) continues the first sentence of

1 former Section 12022.5(c) without substantive change. Subdivision (b) continues former Section
2 12022.5(d) without substantive change. See Section 17505 (“great bodily injury” defined).

3 **Penal Code § 17549. Use of weapon in commission of specified violent offenses**

4 17549. (a) This section applies to the following felonies:

5 (1) Section 187 (murder).

6 (2) Section 203 or 205 (mayhem).

7 (3) Section 207, 209, or 209.5 (kidnapping).

8 (4) Section 211 (robbery).

9 (5) Section 215 (carjacking).

10 (6) Section 220 (assault with intent to commit a specified felony).

11 (7) Subdivision (d) of Section 245 (assault with a firearm on a peace officer or
12 firefighter).

13 (8) Section 261 or 262 (rape).

14 (9) Section 264.1 (rape or sexual penetration in concert).

15 (10) Section 286 (sodomy).

16 (11) Section 288 or 288.5 (lewd act on a child).

17 (12) Section 288a (oral copulation).

18 (13) Section 289 (sexual penetration).

19 (14) Section 4500 (assault by life prisoner).

20 (15) Section 4501 (assault by prisoner).

21 (16) Section 4503 (holding a hostage by prisoner).

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

23 (18) Any attempt to commit a crime listed in this subdivision other than an
24 assault.

25 (b) Notwithstanding any other provision of law, any person who is convicted of
26 a felony specified in subdivision (a), and who in the commission of that felony
27 personally used a firearm, shall be punished by a term of imprisonment of 10 years
28 in the state prison, which shall be imposed in addition and consecutive to the
29 punishment prescribed for that felony. The firearm need not be operable or loaded
30 for this enhancement to apply.

31 (c) Notwithstanding any other provision of law, any person who is convicted of a
32 felony specified in subdivision (a), and who in the commission of that felony
33 intentionally and personally discharged a firearm, shall be punished by a term of
34 imprisonment of 20 years in the state prison, which shall be imposed in addition
35 and consecutive to the punishment prescribed for that felony.

36 (d) Notwithstanding any other provision of law, any person who is convicted of
37 a felony specified in subdivision (a), Section 246, or subdivision (c) or (d) of
38 Section 12034, and who in the commission of that felony intentionally and
39 personally discharged a firearm and proximately caused great bodily injury or
40 death to any person other than an accomplice, shall be punished by a term of
41 imprisonment of 25 years to life in the state prison, which shall be imposed in
42 addition and consecutive to the punishment prescribed for that felony.

1 (e)(1) The enhancements specified in this section apply to any person charged as
2 a principal in the commission of an offense that includes an allegation pursuant to
3 this section when a violation of both this section and subdivision (b) of Section
4 186.22 are pled and proved.

5 (2) An enhancement for participation in a criminal street gang pursuant to
6 Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1, shall not be
7 imposed on a person in addition to an enhancement imposed pursuant to this
8 subdivision, unless the person personally used or personally discharged a firearm
9 in the commission of the offense.

10 (f) Notwithstanding any other provision of law, probation shall not be granted to,
11 nor shall the execution or imposition of sentence be suspended for, any person
12 found to come within the provisions of this section.

13 (g) Notwithstanding Section 1385 or any other provision of law, the court shall
14 not strike an allegation under this section or a finding bringing a person within the
15 provisions of this section.

16 (h) The total amount of credits awarded pursuant to Article 2.5 (commencing
17 with Section 2930) of Chapter 7 of Title 1 of Part 3 or pursuant to Section 4019 or
18 any other provision of law shall not exceed 15 percent of the total term of
19 imprisonment imposed on a defendant upon whom a sentence is imposed pursuant
20 to this section.

21 (i) The enhancements specified in this section do not apply to the lawful use or
22 discharge of a firearm by a public officer, as provided in Section 196, or by any
23 person in lawful self-defense, lawful defense of another, or lawful defense of
24 property, as provided in Sections 197, 198, and 198.5.

25 **Comment.** Section 17549 is added as part of a nonsubstantive reorganization of sentence
26 enhancements for crimes that involve a weapon. Subdivisions (a)-(e) continue former Section
27 12022.53(a)-(e) without substantive change. Subdivisions (f)-(i) continue former Section
28 12022.53(g)-(i) without change. See Section 17505 (“great bodily injury” defined).

29 **Penal Code § 17550. Use of firearm or deadly weapon in commission of sexual offenses**

30 17550. For each violation or attempted violation of Section 261, 262, 264.1, 286,
31 288, 288a, or 289, and in addition to the sentence provided, any person shall
32 receive a three-, four-, or 10-year enhancement if the person uses a firearm or a
33 deadly weapon in the commission of the violation.

34 **Comment.** Section 17550 is added as part of a nonsubstantive reorganization of sentence
35 enhancements for crimes that involve a weapon. This section restates former Section 12022.3(a)
36 without substantive change.

37 **Penal Code § 17551. Discharge of firearm at an occupied vehicle, resulting in great bodily**
38 **injury or death**

39 17551. (a) Any person who is convicted of a felony or an attempt to commit a
40 felony, including murder or attempted murder, in which that person discharged a
41 firearm at an occupied motor vehicle which caused great bodily injury or death to

1 the person of another, shall, upon conviction of that felony or attempted felony, in
2 addition and consecutive to the sentence prescribed for the felony or attempted
3 felony, be punished by an additional term of imprisonment in the state prison for
4 five, six, or 10 years.

5 (b) The additional term provided by this section may be imposed in cases of
6 assault with a firearm under paragraph (2) of subdivision (a) of Section 245, or
7 assault with a deadly weapon which is a firearm under Section 245, or murder if
8 the killing was perpetrated by means of shooting a firearm from a motor vehicle,
9 intentionally at another person outside of the vehicle with the intent to inflict great
10 bodily injury or death.

11 **Comment.** Section 17551 is added as part of a nonsubstantive reorganization of sentence
12 enhancements for crimes that involve a weapon. This section continues former Section
13 12022.5(b)(1) and (d) without change. See Section 17505 (“great bodily injury” defined).

14 **Penal Code § 17552. Discharge of firearm from vehicle resulting in great bodily injury or**
15 **death**

16 17552. Any person who, with the intent to inflict great bodily injury or death,
17 inflicts great bodily injury or causes the death of a person, other than an occupant
18 of a motor vehicle, as a result of discharging a firearm from a motor vehicle in the
19 commission of a felony or attempted felony, shall, upon conviction of the felony
20 or attempted felony, in addition and consecutive to the punishment prescribed for
21 the felony or attempted felony of which he or she has been convicted, be punished
22 by an additional term of imprisonment in the state prison for five, six, or 10 years.

23 **Comment.** Section 17552 is added as part of a nonsubstantive reorganization of sentence
24 enhancements for crimes that involve a weapon. This section continues former Section 12022.55
25 without substantive change. See Section 17505 (“great bodily injury” defined).

26 **Penal Code § 17553. Discharge of firearm from vehicle that results in paralysis or**
27 **paraparesis of victim**

28 17553. (a) A person convicted of a violation of subdivision (c) of Section 12034
29 shall, in addition and consecutive to the punishment for that violation, be punished
30 by an additional term of four years, if as a result of the defendant personally and
31 willfully and maliciously discharging the firearm, the victim suffers paralysis or
32 paraparesis of a major body part, including, but not limited to, the entire hand or
33 foot.

34 (b) A person convicted of a violation of Section 246 shall, in addition and
35 consecutive to the punishment for that violation, be punished by an additional term
36 of four years, if as a result of the defendant personally and willfully and
37 maliciously discharging the firearm at an occupied motor vehicle from another
38 motor vehicle, the victim suffers paralysis or paraparesis of a major body part,
39 including, but not limited to, the entire hand or foot.

40 (c) For purposes of this subdivision:

1 (1) “Paralysis” means a major or complete loss of motor function resulting from
2 injury to the nervous system or to a muscular mechanism.

3 (2) “Paraparesis” means a significant weakness of a major body part, including,
4 but not limited to, the entire hand or foot, causing the extremity to be functionally
5 impaired and rendered useless to assist with one of the basic skills in life such as
6 eating or walking.

7 **Comment.** Section 17553 is added as part of a nonsubstantive reorganization of sentence
8 enhancements for crimes that involve a weapon. This section continues former Section
9 12022.9(b) without substantive change. Former Section 12022.9(b)(3)(C) is redundant and is not
10 continued. See Section 1170.1(e). This is a technical, nonsubstantive change.

11 CHAPTER 3. INJURY ENHANCEMENTS

12 Article 1. General Provisions

13 **Penal Code § 17560. Limit on multiple enhancements**

14 17560. When two or more enhancements may be imposed for the infliction of
15 great bodily injury in the commission of a single offense, only the greatest of those
16 enhancements shall be imposed for that offense. This section shall not limit the
17 imposition of any other enhancements applicable to that offense, including an
18 enhancement for being armed with or using a dangerous or deadly weapon or a
19 firearm.

20 **Comment.** Section 17560 continues former Section 1170.1(g) without substantive change. See
21 Section 17505 (“great bodily injury” defined).

22 Article 2. Enhancements for Injury

23 **Penal Code § 17565. Infliction of great bodily injury in commission of felony**

24 17565. (a) A person who personally inflicts great bodily injury on any person
25 other than an accomplice in the commission or attempted commission of a felony
26 shall, in addition and consecutive to the punishment prescribed for the felony or
27 attempted felony of which he or she has been convicted, be punished by an
28 additional term of three years, unless infliction of great bodily injury is an element
29 of the offense of which he or she is convicted.

30 (b) This section does not apply to murder or manslaughter or a violation of
31 Section 451 or 452.

32 **Comment.** Section 17565 is added as part of a nonsubstantive reorganization of sentence
33 enhancements for crimes that cause an injury. This section continues former Section 12022.7(a)
34 and the first sentence of former subdivision (g) without change. See Section 17505 (“great bodily
35 injury” defined).

1 **Penal Code § 17566. Infliction of great bodily injury causing coma or paralysis**

2 17566. (a) A person who personally inflicts great bodily injury on any person
3 other than an accomplice in the commission or attempted commission of a felony
4 which causes the victim to become comatose due to brain injury or to suffer
5 paralysis, as defined in Section 17553, of a permanent nature, shall be punished by
6 an additional and consecutive term of five years.

7 (b) This section does not apply to murder or manslaughter or a violation of
8 Section 451 or 452.

9 **Comment.** Section 17566 is added as part of a nonsubstantive reorganization of sentence
10 enhancements for crimes that cause an injury. Subdivision (a) restates former Section 12022.7(b)
11 without substantive change. The subdivision restates part of former Section 12022.7(a) that was
12 incorporated by reference in former Section 12022.7(b). Subdivision (b) continues former Section
13 12022.7(f) without substantive change. See Section 17505 (“great bodily injury” defined).

14  **Note.** Subdivision (a) restates elements of Section 12022.7(a) that are expressly incorporated
15 in Section 12022.7(b). The Commission believes that this is a nonsubstantive change, but would
16 like to receive comments on this point.

17 **Penal Code § 17567. Infliction of great bodily injury on person 70 years of age or older**

18 17567. (a) A person who personally inflicts great bodily injury on a person who
19 is 70 years of age or older, other than an accomplice in the commission or
20 attempted commission of a felony shall, in addition and consecutive to the
21 punishment prescribed for the felony or attempted felony of which he or she has
22 been convicted, be punished by an additional term of five years, unless infliction
23 of great bodily injury is an element of the offense of which he or she is convicted.

24 (b) This section does not apply to murder or manslaughter or a violation of
25 Section 451 or 452.

26 **Comment.** Section 17567 is added as part of a nonsubstantive reorganization of sentence
27 enhancements for crimes that cause an injury. This section continues former Section 12022.7(c)
28 and the first sentence of former subdivision (g) without change. See Section 17505 (“great bodily
29 injury” defined).

30 **Penal Code § 17568. Elder abuse resulting in great bodily injury or death**

31 17568. (a) If in the commission of an offense described in subdivision (b) of
32 Section 368, the victim suffers great bodily injury, the defendant shall receive an
33 additional term in the state prison as follows:

34 (1) Three years if the victim is under 70 years of age.

35 (2) Five years if the victim is 70 years of age or older.

36 (b) If in the commission of an offense described in subdivision (b) of Section
37 368, the defendant proximately causes the death of the victim, the defendant shall
38 receive an additional term in the state prison as follows:

39 (1) Five years if the victim is under 70 years of age.

40 (2) Seven years if the victim is 70 years of age or older.

41 **Comment.** Section 17568 is added as part of a nonsubstantive reorganization of sentence
42 enhancements for crimes that cause an injury. Subdivisions (a) and (b) continue former

1 subdivision (b)(2)-(3) of Section 368 without substantive change. See Section 17505 (“great
2 bodily injury” defined).

3 **Penal Code § 17569. Intentional infliction of injury causing termination of pregnancy**

4 17569. (a) Any person who, during the commission or attempted commission of
5 a felony, knows or reasonably should know that the victim is pregnant, and who,
6 with intent to inflict injury, and without the consent of the woman, personally
7 inflicts injury upon a pregnant woman that results in the termination of the
8 pregnancy shall, in addition and consecutive to the punishment prescribed by the
9 felony or attempted felony of which the person has been convicted, be punished by
10 an additional term of five years in the state prison.

11 (b) Nothing in this section shall be construed as affecting the applicability of
12 subdivision (a) of Section 187 of the Penal Code.

13 **Comment.** Section 17569 is added as part of a nonsubstantive reorganization of sentence
14 enhancements for crimes that cause an injury. Subdivision (a) continues the first sentence of
15 former Section 12022.9(a) without change. Subdivision (b) continues the third sentence of former
16 Section 12022.9(a).

17 **Penal Code § 17570. Infliction of great bodily injury involving domestic violence**

18 17570. (a) A person who personally inflicts great bodily injury under
19 circumstances involving domestic violence in the commission or attempted
20 commission of a felony shall, in addition and consecutive to the punishment
21 prescribed for the felony or attempted felony of which he or she has been
22 convicted, be punished by an additional term of three, four, or five years. As used
23 in this section, “domestic violence” has the meaning provided in subdivision (b) of
24 Section 13700.

25 (b) This section does not apply to murder or manslaughter or a violation of
26 Section 451 or 452.

27 **Comment.** Section 17570 is added as part of a nonsubstantive reorganization of sentence
28 enhancements for crimes that cause an injury. Subdivision (a) continues the first and fourth
29 sentences of former Section 12022.7(e) without change. Subdivision (b) continues the first
30 sentence of former Section 12022.7(g) without substantive change. See Section 17505 (“great
31 bodily injury” defined).

32 **Penal Code § 17571. Great bodily injury to child under five years old**

33 17572. A person who personally inflicts great bodily injury on a child under the
34 age of five years in the commission or attempted commission of a felony shall, in
35 addition and consecutive to the punishment prescribed for the felony or attempted
36 felony of which he or she has been convicted, be punished by an additional term of
37 four, five, or six years, unless infliction of great bodily injury is an element of the
38 offense of which he or she is convicted.

39 **Comment.** Section 17571 is added as part of a nonsubstantive reorganization of sentence
40 enhancements for crimes that cause an injury. This section continues the first sentence of former
41 Section 12022.7(d) without change. See Section 17505 (“great bodily injury” defined).

1 **Penal Code § 17572. Willful harm or injury resulting in death of child**

2 17572. Any person convicted of a violation of Section 273a, who under
3 circumstances or conditions likely to produce great bodily harm or death, willfully
4 causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain
5 or injury that results in death, or having the care or custody of any child, under
6 circumstances likely to produce great bodily harm or death, willfully causes or
7 permits that child to be injured or harmed, and that injury or harm results in death,
8 shall receive a four-year enhancement for each violation, in addition to the
9 sentence provided for that conviction. Nothing in this paragraph shall be construed
10 as affecting the applicability of subdivision (a) of Section 187 or Section 192.

11 **Comment.** Section 17572 is added as part of a nonsubstantive reorganization of sentence
12 enhancements for crimes that cause an injury. This section continues the first two sentences of
13 former Section 12022.95 without change.

14 **Penal Code § 17573. Child abuse involving female genital mutilation**

15 17573. (a) If the act constituting a felony violation of subdivision (a) of Section
16 273a was female genital mutilation, as defined in subdivision (b), the defendant
17 shall be punished by an additional term of imprisonment in the state prison for one
18 year, in addition and consecutive to the punishment prescribed by Section 273a.

19 (b) “Female genital mutilation” means the excision or infibulation of the labia
20 majora, labia minora, clitoris, or vulva, performed for nonmedical purposes.

21 (c) Nothing in this section precludes prosecution under Section 203, 205, or 206
22 or any other provision of law.

23 **Comment.** Section 17573 is added as part of a nonsubstantive reorganization of sentence
24 enhancements for crimes that cause an injury. This section restates former language from Section
25 273.4 without substantive change.

26 **Penal Code § 17574. Controlled substance manufacture resulting in great bodily injury to**
27 **child**

28 17574. Any person convicted of a violation of, or of an attempt to violate,
29 subdivision (a) of Section 11379.6 or Section 11383 of the Health and Safety
30 Code, as those sections relate to methamphetamine or phencyclidine, where the
31 commission of the crime causes any child under 16 years of age to suffer great
32 bodily injury, shall, in addition and consecutive to the punishment prescribed for
33 the felony of which he or she has been convicted, be punished by an additional
34 term of five years in the state prison.

35 **Comment.** Section 17574 is added as part of a nonsubstantive reorganization of sentence
36 enhancements for crimes that cause an injury. This section restates former language from Health
37 and Safety Code Section 11379.7(b) without substantive change. See Section 17505 (“great
38 bodily injury” defined).

1 **Penal Code § 17575. Controlled substance manufacture resulting in death or great bodily**
2 **injury**

3 17575. (a) Any person convicted of a violation of, or of an attempt to violate,
4 subdivision (a) of Section 11379.6 or Section 11383 of the Health and Safety
5 Code, as those sections relate to methamphetamine or phencyclidine, when the
6 commission or attempted commission of the offense causes the death or great
7 bodily injury of another person other than an accomplice, shall, in addition and
8 consecutive to any other punishment authorized by law, be punished by an
9 additional term of one year in the state prison for each death or injury.

10 (b) Nothing in this section shall preclude prosecution under both this section and
11 Section 187, 192, 17565, 17566, 17567, or 17570, or any other provision of law.
12 However, a person who is punished under another provision of law for causing
13 death or great bodily injury as described in subdivision (a) shall not receive an
14 additional term of imprisonment under this section.

15 **Comment.** Section 17575 is added as part of a nonsubstantive reorganization of sentence
16 enhancements for crimes that cause an injury. This section continues former Health and Safety
17 Code Section 11379.9 without substantive change. See Section 17505 (“great bodily injury”
18 defined).

19 ☞ **Note.** The purpose of subdivision (b) is unclear. The first sentence provides that a person may
20 be “prosecuted” under Section 17575 as well as any of the specified sections. The second
21 sentence seems to provide that a person may not receive an enhancement under this section if the
22 person is punished under any other law for causing death or great bodily injury. This is probably
23 meant as a reiteration of the general rule that a person may only receive a single enhancement (the
24 greatest) for causing great bodily injury in commission of a single offense. See Section 1170.1(g).
25 If so, it is superfluous. However, it might be read to mean that an enhancement under this section
26 does not apply even if the punishment is for another offense, or if another applicable
27 enhancement is of a lesser duration.

28 The Commission would like to receive input on the meaning of subdivision (b) and whether it
29 serves any useful purpose.

30 **Penal Code § 17576. Poisoning resulting in great bodily injury or possibility of death**

31 17576. Any violation of subdivision (a) of Section 347 involving the use of a
32 poison or harmful substance that may cause death if ingested or that causes the
33 infliction of great bodily injury on any person shall be punished by an additional
34 term of three years.

35 **Comment.** Section 17576 is added as part of a nonsubstantive reorganization of sentence
36 enhancements for crimes that cause an injury. This section continues former Section 347(a)(2)
37 without substantive change. See Section 17505 (“great bodily injury” defined).

38 **Penal Code § 17577. Forced ingestion of controlled substance**

39 17577. Any person who, for the purpose of committing a felony, administers by
40 injection, inhalation, ingestion, or any other means, any controlled substance listed
41 in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code,
42 against the victim’s will by means of force, violence, or fear of immediate and

1 unlawful bodily injury to the victim or another person, shall, in addition and
2 consecutive to the penalty provided for the felony or attempted felony of which he
3 or she has been convicted, be punished by an additional term of three years.

4 **Comment.** Section 17577 is added as part of a nonsubstantive reorganization of sentence
5 enhancements for crimes that cause an injury. This section continues former Section 12022.75
6 without change.

7 **Penal Code § 17578. Infliction of great bodily injury in commission of certain sexual**
8 **offenses**

9 17578. Any person who inflicts great bodily injury on any victim in a violation
10 or attempted violation of paragraph (2), (3), or (6) of subdivision (a) of Section
11 261, paragraph (1) or (4) of subdivision (a) of Section 262, Section 264.1,
12 subdivision (b) of Section 288, subdivision (a) of Section 289, or sodomy or oral
13 copulation by force, violence, duress, menace, or fear of immediate and unlawful
14 bodily injury on the victim or another person as provided in Section 286 or 288a
15 shall receive a five-year enhancement for each such violation in addition to the
16 sentence provided for the felony conviction.

17 **Comment.** Section 17578 is added as part of a nonsubstantive reorganization of sentence
18 enhancements for crimes that cause an injury. This section continues former Section 12022.8
19 without substantive change. See Section 17505 (“great bodily injury” defined).

20 **Penal Code § 17579. Commission of certain sexual offenses by person who knows he or she**
21 **has AIDS**

22 17579. (a) Any person who violates one or more of the offenses listed in
23 subdivision (b) with knowledge that he or she has acquired immune deficiency
24 syndrome (AIDS) or with the knowledge that he or she carries antibodies of the
25 human immunodeficiency virus at the time of the commission of those offenses,
26 shall receive a three-year enhancement for each violation in addition to the
27 sentence provided under those sections.

28 (b) Subdivision (a) applies to the following crimes:

29 (1) Rape in violation of Section 261.

30 (2) Unlawful intercourse with a person under 18 years of age in violation of
31 Section 261.5.

32 (3) Rape of a spouse in violation of Section 262.

33 (4) Sodomy in violation of Section 286.

34 (5) Oral copulation in violation of Section 288a.

35 (c) For purposes of proving the knowledge requirement of this section, the
36 prosecuting attorney may use test results received under subdivision (c) of Section
37 1202.1 or subdivision (g) of Section 1202.6.

38 **Comment.** Section 17579 is added as part of a nonsubstantive reorganization of sentence
39 enhancements for crimes that cause an injury. This section continues former Section 12022.85
40 without change.

1 **Penal Code § 17580. Arson resulting in great bodily injury**

2 17580. Notwithstanding any other law, any person who is convicted of a felony
3 violation of Section 451 shall be punished by a three-, four-, or five-year
4 enhancement if one or more of the following circumstances is found to be true:

5 (a) A firefighter, peace officer, or other emergency personnel suffered great
6 bodily injury as a result of the offense. The additional term provided by this
7 subdivision shall be imposed whenever applicable, including any instance in
8 which there is a violation of subdivision (a) of Section 451.

9 (b) The defendant proximately caused great bodily injury to more than one
10 victim in any single violation of Section 451. The additional term provided by this
11 subdivision shall be imposed whenever applicable, including any instance in
12 which there is a violation of subdivision (a) of Section 451.

13 **Comment.** Section 17580 is added as part of a nonsubstantive reorganization of sentence
14 enhancements for crimes that cause an injury. This section continues former Section 451.1(a)(2)-
15 (3) without substantive change. See Section 17505 (“great bodily injury” defined).

16 **Penal Code § 17581. Aggravated arson resulting in great bodily injury**

17 17581. (a) Notwithstanding any other law, any person who is convicted of a
18 felony violation of Section 452 shall be punished by a one-, two-, or three-year
19 enhancement for each of the following circumstances that is found to be true:

20 (a) A firefighter, peace officer, or other emergency personnel suffered great
21 bodily injury as a result of the offense. The additional term provided by this
22 subdivision shall be imposed whenever applicable, including any instance in
23 which there is a violation of subdivision (a) of Section 452.

24 (b) The defendant proximately caused great bodily injury to more than one
25 victim in any single violation of Section 452. The additional term provided by this
26 subdivision shall be imposed whenever applicable, including any instance in
27 which there is a violation of subdivision (a) of Section 452.

28 **Comment.** Section 17581 is added as part of a nonsubstantive reorganization of sentence
29 enhancements for crimes that cause an injury. This section continues former Section 452.1(a)(2)-
30 (3) without substantive change. See Section 17505 (“great bodily injury” defined).

31 **Penal Code § 17582. Saw-wood spiking resulting in bodily injury**

32 17582. Any person who violates section 593a and causes bodily injury to
33 another person other than an accomplice shall, in addition and consecutive to the
34 punishment prescribed for that felony, be punished by an additional prison term of
35 three years.

36 **Comment.** Section 17582 is added as part of a nonsubstantive reorganization of sentence
37 enhancements for crimes that cause an injury. This section continues former Section 593a(b)
38 without substantive change.

1 **Penal Code § 17583. Unlawful disposal, transport, or treatment of hazardous waste**
2 **resulting in great bodily injury or probability of death**

3 17583. Any person convicted of violating subdivision (b), (c), or (d) of Section
4 25189.5 of the Health and Safety Code, where the act that caused the violation
5 caused great bodily injury, or caused a substantial probability that death could
6 result, may be punished by imprisonment in the state prison for one, two, or three
7 years, in addition and consecutive to the term specified in subdivision (b), (c), or
8 (d) of Section 25189.5 of the Health and Safety Code, and may be fined up to two
9 hundred fifty thousand dollars (\$250,000) for each day of violation. For the
10 purposes of this section, “each day of violation” has the meaning provided in
11 subdivision (f) of Section 25189.5 of the Health and Safety Code,

12 **Comment.** Section 17583 is added as part of a nonsubstantive reorganization of sentence
13 enhancements for crimes that cause an injury. This section restates former language from Health
14 and Safety Code Section 25189.5(e) without substantive change. See Section 17505 (“great
15 bodily injury” defined).

16 **Penal Code § 17584. Unlawful disposal, transport, or treatment of hazardous waste**
17 **resulting in great bodily injury or probability of death**

18 17584. Any person convicted of violating subdivision (b) of Section 25189.7 of
19 the Health and Safety Code, where the act that caused the violation caused great
20 bodily injury, or caused a substantial probability that death could result, may be
21 punished by imprisonment in the state prison for one, two, or three years, in
22 addition and consecutive to the term specified in subdivision (b) of Section
23 25189.7 of the Health and Safety Code, and may be fined up to two hundred fifty
24 thousand dollars (\$250,000) for each day of violation.

25 **Comment.** Section 17584 is added as part of a nonsubstantive reorganization of sentence
26 enhancements for crimes that cause an injury. This section restates the former second sentence of
27 Health and Safety Code Section 25189.7(c) without substantive change. See Section 17505
28 (“great bodily injury” defined).

29 **Penal Code § 17585. Injuries caused while driving in violation of certain sections**

30 17585. (a) Any person who proximately causes bodily injury or death to more
31 than one victim in any one instance of driving in violation of Section 23153 of this
32 code or in violation of Section 191.5 of, or paragraph (3) of subdivision (c) of
33 Section 192 of, the Penal Code, shall, upon a felony conviction, and
34 notwithstanding Section 17560, receive an enhancement of one year in the state
35 prison for each additional injured victim. The maximum number of one year
36 enhancements which may be imposed pursuant to this section is three.

37 (b) Notwithstanding any other provision of law, the court may strike the
38 enhancements provided in this section if it determines that there are circumstances
39 in mitigation of the additional punishment and states on the record its reasons for
40 striking the additional punishment.

1 **Comment.** Section 17585 is added as part of a nonsubstantive reorganization of sentence
2 enhancements for crimes that cause an injury. This section continues former language from
3 Vehicle Code Section 23558 without substantive change.

4 **Penal Code § 17586. Staged accident resulting in serious bodily injury**

5 17586. (a) Any person who violates paragraph (3) of subdivision (a) of Section
6 550 shall receive a two-year enhancement for each person other than an
7 accomplice who suffers serious bodily injury resulting from the vehicular collision
8 or accident in a violation of paragraph (3) of subdivision (a).

9 (b) This section shall not be construed to preclude the applicability of any other
10 provision of criminal law or equitable remedy that applies or may apply to any act
11 committed or alleged to have been committed by a person.

12 **Comment.** Section 17586 is added as part of a nonsubstantive reorganization of sentence
13 enhancements for crimes that cause an injury. This section continues former Section 550(g)-(h)
14 without substantive change.

15 **Penal Code § 17587. Injury to police dog or horse**

16 17587. (a) Any person who, in violation of Section 600, and with intent to inflict
17 injury or death, personally causes the death, destruction, or serious physical injury
18 including bone fracture, loss or impairment of function of any bodily member,
19 wounds requiring extensive suturing, or serious crippling, of any horse or dog,
20 shall, upon conviction of a felony under Section 600, in addition and consecutive
21 to the punishment prescribed for the felony, be punished by an additional term of
22 imprisonment in the state prison for one year.

23 (b) Any person who, in violation of Section 600, and with the intent to inflict
24 such injury, personally causes great bodily injury to any person not an accomplice,
25 shall, upon conviction of a felony under Section 600, in addition and consecutive
26 to the punishment prescribed for the felony, be punished by an additional term of
27 imprisonment in the state prison for two years unless the conduct described in this
28 subdivision is an element of any other offense of which the person is convicted.

29 **Comment.** Section 17587 is added as part of a nonsubstantive reorganization of sentence
30 enhancements for crimes that cause an injury. This section continues former Section 600(c)-(d)
31 without substantive change. See Section 17505 (“great bodily injury” defined).

32 **Penal Code § 17588. Medi-Cal fraud resulting in injury**

33 17588. If the execution of a scheme or artifice to defraud as defined in paragraph
34 (4) of subdivision (b) of Section 14107 of the Health and Safety Code is
35 committed under circumstances likely to cause or that do cause two or more
36 persons great bodily injury, or serious bodily injury, as defined in paragraph (4) of
37 subdivision (f) of Section 243, a term of four years, in addition and consecutive to
38 the term of imprisonment imposed in subdivision (c), shall be imposed for each
39 person who suffers great bodily injury or serious bodily injury.

1 **Comment.** Section 17588 is added as part of a nonsubstantive reorganization of sentence
2 enhancements for crimes that cause an injury. This section continues the first sentence of former
3 Health and Safety Code Section 14107(d) without substantive change. See Section 17505 (“great
4 bodily injury” defined).

1 CONFORMING REVISIONS AND REPEALS

2 ☞ **Note.** There are a number of sections that contain references to provisions that are renumbered
3 in the proposed law. Proposed legislation to update these cross-references has been prepared.
4 With one exception, these purely technical changes are not set out below. The proposed update of
5 Penal Code Section 1170.2 presents a question on which the Commission would like to receive
6 input and is reproduced below. The following sections include cross-reference that will need to be
7 updated:

8 Health and Safety Code Sections 42400.1, 42400.2, 42400.3, 42402.1, 42402.2, 42402.3, and
9 124170.

10 Penal Code Sections 186.22, 190, 206, 290, 422.75, 667.5, 667.61, 667.7, 969c, 969d, 1170.11,
11 1174.4, 1192.7, 1202.1, 1203.055, 1203.075, 1203.09, 1269b, 2933.5, 2962, 1203.09, 3057,
12 11105.3, 12035, and 13855.

13 Vehicle Code Sections 1808.21, 23104, 23566, and 23665.

14 Welfare and Institutions Code Sections 676, 707, and 3052.

15 HEALTH AND SAFETY CODE

16 **Health & Safety Code § 11379.7 (amended). Specified violations involving**
17 **methamphetamine or phencyclidine**

18 Sec. _____. Section 11379.7 of the Health and Safety Code is amended to read:

19 11379.7. (a) Except as provided in subdivision (b) ~~Section 17574 of the Penal~~
20 Code, any person convicted of a violation of subdivision (a) of Section 11379.6 or
21 Section 11383, or of an attempt to violate subdivision (a) of Section 11379.6 or
22 Section 11383, as those sections relate to methamphetamine or phencyclidine,
23 when the commission or attempted commission of the crime occurs in a structure
24 where any child under 16 years of age is present, shall, in addition and consecutive
25 to the punishment prescribed for the felony of which he or she has been convicted,
26 be punished by an additional term of two years in the state prison.

27 (b) Any person convicted of a violation of subdivision (a) of Section 11379.6 or
28 Section 11383, or of an attempt to violate subdivision (a) of Section 11379.6 or
29 Section 11383, ~~as those sections relate to methamphetamine or phencyclidine,~~
30 ~~where the commission of the crime causes any child under 16 years of age to~~
31 ~~suffer great bodily injury,~~ shall, in addition and consecutive to the punishment
32 prescribed for the felony of which he or she has been convicted, be punished by an
33 additional term of five years in the state prison may be subject to a sentence
34 enhancement under Section 17574 or 17575 of the Penal Code.

35 (c) As used in this section, “structure” means any house, apartment building,
36 shop, warehouse, barn, building, vessel, railroad car, cargo container, motor
37 vehicle, housecar, trailer, trailer coach, camper, mine, floating home, or other
38 enclosed structure capable of holding a child and manufacturing equipment.

39 (d) ~~As used in this section, “great bodily injury” has the same meaning as~~
40 ~~defined in Section 12022.7 of the Penal Code.~~

1 **Comment.** Former language from Section 11379.7(b) is restated without substantive change in
2 Penal Code Section 17574. A cross-reference to Penal Code Sections 17574 and 17575 has been
3 added.. Former subdivision (d) is continued without substantive change in Penal Code Section
4 17505.

5 **Health & Safety Code § 11379.9 (repealed). Death or great bodily injury resulting from**
6 **manufacture of methamphetamine or phencyclidine**

7 Sec. _____. Section 11379.9 of the Health and Safety Code is repealed.

8 ~~11379.9. (a) Except as provided by Section 11379.7, any person convicted of a~~
9 ~~violation of, or of an attempt to violate, subdivision (a) of Section 11379.6 or~~
10 ~~Section 11383, as those sections relate to methamphetamine or phencyclidine,~~
11 ~~when the commission or attempted commission of the offense causes the death or~~
12 ~~great bodily injury of another person other than an accomplice, shall, in addition~~
13 ~~and consecutive to any other punishment authorized by law, be punished by an~~
14 ~~additional term of one year in the state prison for each death or injury.~~

15 ~~(b) Nothing in this section shall preclude prosecution under both this section and~~
16 ~~Section 187, 192, or 12022.7, or any other provision of law. However, a person~~
17 ~~who is punished under another provision of law for causing death or great bodily~~
18 ~~injury as described in subdivision (a) shall not receive an additional term of~~
19 ~~imprisonment under this section.~~

20 **Comment.** Former Section 11379.9 is continued without substantive change in Penal Code
21 Section 17575. The introductory clause of subdivision (a) is redundant and is not continued. See
22 Section 17560 (only single greatest enhancement for great bodily injury applied). This is a
23 technical, nonsubstantive change.

24  **Note.** The introductory clause of subdivision (a) appears to be redundant in light of the
25 general rule provided in proposed Section 17560 and is not continued in the proposed law. The
26 Commission believes that this is a nonsubstantive change, but would like to receive comments on
27 this point.

28 **Health & Safety Code § 25189.5 (amended). Unauthorized disposal, or treatment of**
29 **hazardous waste**

30 Sec. _____. Section 25189.5 of the Health and Safety Code is amended to read:

31 25189.5. (a) The disposal of any hazardous waste, or the causing thereof, is
32 prohibited when the disposal is at a facility which does not have a permit from the
33 department issued pursuant to this chapter, or at any point which is not authorized
34 according to this chapter.

35 (b) Any person who is convicted of knowingly disposing or causing the disposal
36 of any hazardous waste, or who reasonably should have known that he or she was
37 disposing or causing the disposal of any hazardous waste, at a facility which does
38 not have a permit from the department issued pursuant to this chapter, or at any
39 point which is not authorized according to this chapter shall, upon conviction, be
40 punished by imprisonment in a county jail for not more than one year or by
41 imprisonment in the state prison.

1 (c) Any person who knowingly transports or causes the transportation of
2 hazardous waste, or who reasonably should have known that he or she was causing
3 the transportation of any hazardous waste, to a facility which does not have a
4 permit from the department issued pursuant to this chapter, or at any point which
5 is not authorized according to this chapter, shall, upon conviction, be punished by
6 imprisonment in a county jail for not more than one year or by imprisonment in
7 the state prison.

8 (d) Any person who knowingly treats or stores any hazardous waste at a facility
9 which does not have a permit from the department issued pursuant to this chapter,
10 or at any point which is not authorized according to this chapter, shall, upon
11 conviction, be punished by imprisonment in a county jail for not more than one
12 year or by imprisonment in the state prison.

13 (e) The court also shall impose upon a person convicted of violating subdivision
14 (b), (c), or (d), a fine of not less than five thousand dollars (\$5,000) nor more than
15 one hundred thousand dollars (\$100,000) for each day of violation, except as
16 further provided in this subdivision. ~~If the act which violated subdivision (b), (c),
17 or (d) caused great bodily injury, or caused a substantial probability that death
18 could result, the person convicted of violating subdivision (b), (c), or (d) may be
19 punished by imprisonment in the state prison for one, two, or three years, in
20 addition and consecutive to the term specified in subdivision (b), (c), or (d), and
21 may be fined up to two hundred fifty thousand dollars (\$250,000) for each day of
22 violation section 17583 of the Penal Code.~~

23 (f) For purposes of this section, except as otherwise provided in this subdivision,
24 “each day of violation” means each day on which a violation continues. In any
25 case where a person has disposed or caused the disposal of any hazardous waste in
26 violation of this section, each day that the waste remains disposed of in violation
27 of this section and the person has knowledge thereof is a separate additional
28 violation, unless the person has filed a report of the disposal with the department
29 and is complying with any order concerning the disposal issued by the department,
30 a hearing officer, or court of competent jurisdiction.

31 **Comment.** Former language from Section 25189.5(e) is restated without substantive change in
32 Penal Code Section 17583.

33 **Health & Safety Code § 25189.7 (amended). Burning or incineration at unpermitted facility**
34 **or unauthorized point**

35 Sec. _____. Section 25189.7 of the Health and Safety Code is amended to read:

36 25189.7. (a) The burning or incineration of any hazardous waste, or the causing
37 thereof, is prohibited when the burning or incineration is at a facility which does
38 not have a permit from the department issued pursuant to this chapter, or at any
39 point which is not authorized according to this chapter.

40 (b) Any person who is convicted of knowingly burning or incinerating, or
41 causing the burning or incineration of, any hazardous waste, or who reasonably

1 should have known that he or she was burning or incinerating, or causing the
2 burning or incineration of, any hazardous waste, at a facility which does not have a
3 permit from the department issued pursuant to this chapter, or at any point which
4 is not authorized according to this chapter, shall, upon conviction, be punished by
5 imprisonment in a county jail for not more than one year or by imprisonment in
6 the state prison.

7 (c) The court also shall impose upon a person convicted of violating subdivision
8 (b) a fine of not less than five thousand dollars (\$5,000) nor more than one
9 hundred thousand dollars (\$100,000) for each day of violation, except as otherwise
10 provided in this subdivision. ~~If the act which violated subdivision (b) caused great~~
11 ~~bodily injury or caused a substantial probability that death could result, the person~~
12 ~~convicted of violating subdivision (b) may be punished by imprisonment in the~~
13 ~~state prison for one, two, or three years, in addition and consecutive to the term~~
14 ~~specified in subdivision (b), and may be fined up to two hundred fifty thousand~~
15 ~~dollars (\$250,000) for each day of violation Section 17584 of the Penal Code.~~

16 **Comment.** The former language from Section 25189.7(c) is restated without substantive
17 change in Penal Code Section 17584.

18 PE N A L C O D E

19 **Penal Code § 273.4 (amended). Female genital mutilation**

20 Sec. _____. Section 273.4 of the Penal Code is repealed.

21 273.4. (a) If the act constituting a felony violation of subdivision (a) of Section
22 273a was female genital mutilation, as defined in subdivision (b), ~~the defendant~~
23 ~~shall be punished by an additional term of imprisonment in the state prison for one~~
24 ~~year, in addition and consecutive to the punishment prescribed by Section 273a. of~~
25 ~~Section 17573, the defendant may be subject to a sentence enhancement under that~~
26 ~~Section.~~

27 (b) ~~“Female genital mutilation” means the excision or infibulation of the labia~~
28 ~~majora, labia minora, clitoris, or vulva, performed for nonmedical purposes.~~

29 (c) ~~Nothing in this section shall preclude prosecution under Section 203, 205, or~~
30 ~~206 or any other provision of law.~~

31 **Comment.** Former language from Section 273.4 is restated in Penal Code Section 17573
32 without substantive change. A cross-reference to Penal Code Section 17573 has been added.

33 **Penal Code § 347 (amended). Poisoning or adulterating food, drink, medicine,**
34 **pharmaceutical products, spring, well, or reservoir**

35 Sec. _____. Section 347 of the Penal Code is amended to read:

36 347. (a) (1) Every person who willfully mingles any poison or harmful substance
37 with any food, drink, medicine, or pharmaceutical product or who willfully places
38 any poison or harmful substance in any spring, well, reservoir, or public water
39 supply, where the person knows or should have known that the same would be

1 taken by any human being to his or her injury, is guilty of a felony punishable by
2 imprisonment in the state prison for two, four, or five years. This sentence may be
3 subject to enhancement under Section 17576.

4 ~~(2) Any violation of paragraph (1) involving the use of a poison or harmful~~
5 ~~substance that may cause death if ingested or that causes the infliction of great~~
6 ~~bodily injury on any person shall be punished by an additional term of three years.~~

7 (b) Any person who maliciously informs any other person that a poison or other
8 harmful substance has been or will be placed in any food, drink, medicine,
9 pharmaceutical product, or public water supply, knowing that such report is false,
10 is guilty of a crime punishable by imprisonment in the state prison, or by
11 imprisonment in the county jail not to exceed one year.

12 (c) The court may impose the maximum fine for each item tampered with in
13 violation of subdivision (a).

14 **Comment.** Former Section 347(a)(2) is continued without change in Section 17576. A cross-
15 reference to Penal Code Section 17576 has been added.

16 **Penal Code § 368 (amended). Abuse of elder or dependent adult**

17 Sec. ____ . Section 368 of the Penal Code is amended to read:

18 368. (a) The Legislature finds and declares that crimes against elders and
19 dependent adults are deserving of special consideration and protection, not unlike
20 the special protections provided for minor children, because elders and dependent
21 adults may be confused, on various medications, mentally or physically impaired,
22 or incompetent, and therefore less able to protect themselves, to understand or
23 report criminal conduct, or to testify in court proceedings on their own behalf.

24 (b)(1) Any person who, under circumstances or conditions likely to produce
25 great bodily harm or death, willfully causes or permits any elder or dependent
26 adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or
27 inflicts thereon unjustifiable physical pain or mental suffering, or having the care
28 or custody of any elder or dependent adult, willfully causes or permits the person
29 or health of the elder or dependent adult to be injured, or willfully causes or
30 permits the elder or dependent adult to be placed in a situation in which his or her
31 person or health is endangered, is punishable by imprisonment in a county jail not
32 exceeding one year, or by a fine not to exceed six thousand dollars (\$6,000), or by
33 both that fine and imprisonment, or in the state prison for two, three, or four years.
34 This sentence may be subject to enhancement under Section 17568.

35 ~~(2) If in the commission of an offense described in paragraph (1), the victim~~
36 ~~suffers great bodily injury, as defined in subdivision (e) of Section 12022.7, the~~
37 ~~defendant shall receive an additional term in the state prison as follows:~~

38 (A) Three years if the victim is under 70 years of age.

39 (B) Five years if the victim is 70 years of age or older.

40 (3) ~~If in the commission of an offense described in paragraph (1), the defendant~~
41 ~~proximately causes the death of the victim, the defendant shall receive an~~
42 ~~additional term in the state prison as follows:~~

1 (A) ~~Five years if the victim is under 70 years of age.~~

2 (B) ~~Seven years if the victim is 70 years of age or older.~~

3 (c) Any person who, under circumstances or conditions other than those likely to
4 produce great bodily harm or death, willfully causes or permits any elder or
5 dependent adult, with knowledge that he or she is an elder or a dependent adult, to
6 suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having
7 the care or custody of any elder or dependent adult, willfully causes or permits the
8 person or health of the elder or dependent adult to be injured or willfully causes or
9 permits the elder or dependent adult to be placed in a situation in which his or her
10 person or health may be endangered, is guilty of a misdemeanor.

11 (d) Any person who is not a caretaker who violates any provision of law
12 proscribing theft or embezzlement, with respect to the property of an elder or
13 dependent adult, and who knows or reasonably should know that the victim is an
14 elder or dependent adult, is punishable by imprisonment in a county jail not
15 exceeding one year, or in the state prison for two, three, or four years, when the
16 money, labor, or real or personal property taken is of a value exceeding four
17 hundred dollars (\$400); and by a fine not exceeding one thousand dollars (\$1,000),
18 by imprisonment in a county jail not exceeding one year, or by both that fine and
19 imprisonment, when the money, labor, or real or personal property taken is of a
20 value not exceeding four hundred dollars (\$400).

21 (e) Any caretaker of an elder or a dependent adult who violates any provision of
22 law proscribing theft or embezzlement, with respect to the property of that elder or
23 dependent adult, is punishable by imprisonment in a county jail not exceeding one
24 year, or in the state prison for two, three, or four years when the money, labor, or
25 real or personal property taken is of a value exceeding four hundred dollars (\$400),
26 and by a fine not exceeding one thousand dollars (\$1,000), by imprisonment in a
27 county jail not exceeding one year, or by both that fine and imprisonment, when
28 the money, labor, or real or personal property taken is of a value not exceeding
29 four hundred dollars (\$400).

30 (f) Any person who commits the false imprisonment of an elder or dependent
31 adult by the use of violence, menace, fraud, or deceit is punishable by
32 imprisonment in the state prison for two, three, or four years.

33 (g) As used in this section, “elder” means any person who is 65 years of age or
34 older.

35 (h) As used in this section, “dependent adult” means any person who is between
36 the ages of 18 and 64, who has physical or mental limitations which restrict his or
37 her ability to carry out normal activities or to protect his or her rights, including,
38 but not limited to, persons who have physical or developmental disabilities or
39 whose physical or mental abilities have diminished because of age. “Dependent
40 adult” includes any person between the ages of 18 and 64 who is admitted as an
41 inpatient to a 24-hour health facility, as defined in Sections 1250, 1250.2, and
42 1250.3 of the Health and Safety Code.

1 (i) As used in this section, “caretaker” means any person who has the care,
2 custody, or control of, or who stands in a position of trust with, an elder or a
3 dependent adult.

4 (j) Nothing in this section shall preclude prosecution under both this section and
5 Section 187 or ~~12022.7~~ 17567 or any other provision of law. ~~However, a person~~
6 ~~shall not receive an additional term of imprisonment under both paragraphs (2) and~~
7 ~~(3) of subdivision (b) for any single offense, nor shall a person receive an~~
8 ~~additional term of imprisonment under both Section 12022.7 and paragraph (2) or~~
9 ~~(3) of subdivision (b) for any single offense.~~

10 **Comment.** Former Section 368(b)(2)-(3) is continued without substantive change in Section
11 17568. A cross-reference to Penal Code Section 17568 has been added.

12 The second sentence of subdivision (j) is redundant and has been deleted. See Section 17560.
13 This is a technical, nonsubstantive change.

14  **Note.** The second sentence in subdivision (j) appears to be redundant with respect to the
15 general rule provided in proposed Section 17560 and is not continued in the proposed law. The
16 Commission believes that this is a nonsubstantive change, but would like to receive comments on
17 this point.

18 **Penal Code § 451.1 (amended). Arson**

19 Sec. _____. Section 451.1 of the Penal Code is amended to read:

20 451.1. (a) Notwithstanding any other law, any person who is convicted of a
21 felony violation of Section 451 shall be punished by a three-, four-, or five-year
22 enhancement if one or more of the following circumstances is found to be true:

23 (1) The defendant has been previously convicted of a felony violation of Section
24 451 or 452.

25 ~~(2) A firefighter, peace officer, or other emergency personnel suffered great~~
26 ~~bodily injury as a result of the offense. The additional term provided by this~~
27 ~~subdivision shall be imposed whenever applicable, including any instance in~~
28 ~~which there is a violation of subdivision (a) of Section 451.~~

29 ~~(3) The defendant proximately caused great bodily injury to more than one~~
30 ~~victim in any single violation of Section 451. The additional term provided by this~~
31 ~~subdivision shall be imposed whenever applicable, including any instance in~~
32 ~~which there is a violation of subdivision (a) of Section 451.~~

33 ~~(4) (2) The defendant proximately caused multiple structures to burn in any~~
34 ~~single violation of Section 451.~~

35 ~~(5) (3) The defendant committed arson as described in subdivision (a), (b), or (c)~~
36 ~~of Section 451 and the arson was caused by use of a device designed to accelerate~~
37 ~~the fire or delay ignition.~~

38 (b) The sentence for a felony violation of Section 451 may also be subject to
39 enhancement under Section 17576.

40 ~~The additional term specified in subdivision (a) shall not be imposed unless the~~
41 ~~existence of any fact required under this section shall be alleged in the accusatory~~

1 ~~pleading and either admitted by the defendant in open court or found to be true by~~
2 ~~the trier of fact.~~

3 **Comment.** Former Section 451.1(a)(2)-(3) is continued without substantive change in Section
4 17580.

5 Former subdivision (b) is deleted as redundant. See Section 1170.1(e). This is a technical,
6 nonsubstantive change.

7  **Note.** Subdivision (b) appears to be redundant with respect to the general rule provided in
8 Section 1170.1(e) and is not continued in the proposed law. The Commission believes that this is
9 a nonsubstantive change, but would like to receive comments on this point.

10 **Penal Code § 452.1 (amended). Aggravated arson**

11 Sec. _____. Section 452.1 of the Penal Code is amended to read:

12 452.1. (a) Notwithstanding any other law, any person who is convicted of a
13 felony violation of Section 452 shall be punished by a one-, two-, or three-year
14 enhancement for each of the following circumstances that is found to be true:

15 (1) The defendant has been previously convicted of a felony violation of Section
16 451 or 452.

17 ~~(2) A firefighter, peace officer, or other emergency personnel suffered great~~
18 ~~bodily injury as a result of the offense. The additional term provided by this~~
19 ~~subdivision shall be imposed whenever applicable, including any instance in~~
20 ~~which there is a violation of subdivision (a) of Section 452.~~

21 ~~(3) The defendant proximately caused great bodily injury to more than one~~
22 ~~victim in any single violation of Section 452. The additional term provided by this~~
23 ~~subdivision shall be imposed whenever applicable, including any instance in~~
24 ~~which there is a violation of subdivision (a) of Section 452.~~

25 ~~(4) (2) The defendant proximately caused multiple structures to burn in any~~
26 ~~single violation of Section 452.~~

27 ~~(b) The sentence for a felony violation of Section 451 may also be subject to~~
28 ~~enhancement under Section 17581.~~

29 ~~The additional term specified in subdivision (a) of Section 452.1 shall not be~~
30 ~~imposed unless the existence of any fact required under this section shall be~~
31 ~~alleged in the accusatory pleading and either admitted by the defendant in open~~
32 ~~court or found to be true by the trier of fact.~~

33 **Comment.** Former Section 452.1(a)(2)-(3) is continued without substantive change in Section
34 17581.

35 Former subdivision (b) is deleted as redundant. See Section 1170.1(e). This is a technical,
36 nonsubstantive change.

37  **Note.** Subdivision (b) appears to be redundant with respect to the general rule provided in
38 Section 1170.1(e) and is not continued in the proposed law. The Commission believes that this is
39 a nonsubstantive change, but would like to receive comments on this point.

40 **Penal Code § 550 (amended). False or fraudulent claims or statements**

41 Sec. _____. Section 550 of the Penal Code is amended to read:

1 550. (a) It is unlawful to do any of the following, or to aid, abet, solicit, or
2 conspire with any person to do any of the following:

3 (1) Knowingly present or cause to be presented any false or fraudulent claim for
4 the payment of a loss or injury, including payment of a loss or injury under a
5 contract of insurance.

6 (2) Knowingly present multiple claims for the same loss or injury, including
7 presentation of multiple claims to more than one insurer, with an intent to defraud.

8 (3) Knowingly cause or participate in a vehicular collision, or any other
9 vehicular accident, for the purpose of presenting any false or fraudulent claim.

10 (4) Knowingly present a false or fraudulent claim for the payments of a loss for
11 theft, destruction, damage, or conversion of a motor vehicle, a motor vehicle part,
12 or contents of a motor vehicle.

13 (5) Knowingly prepare, make, or subscribe any writing, with the intent to present
14 or use it, or to allow it to be presented, in support of any false or fraudulent claim.

15 (6) Knowingly make or cause to be made any false or fraudulent claim for
16 payment of a health care benefit.

17 (7) Knowingly submit a claim for a health care benefit that was not used by, or
18 on behalf of, the claimant.

19 (8) Knowingly present multiple claims for payment of the same health care
20 benefit with an intent to defraud.

21 (9) Knowingly present for payment any undercharges for health care benefits on
22 behalf of a specific claimant unless any known overcharges for health care benefits
23 for that claimant are presented for reconciliation at that same time.

24 (10) For purposes of paragraphs (6) to (9), inclusive, a claim or a claim for
25 payment of a health care benefit also means a claim or claim for payment
26 submitted by or on the behalf of a provider of any workers' compensation health
27 benefits under the Labor Code.

28 (b) It is unlawful to do, or to knowingly assist or conspire with any person to do,
29 any of the following:

30 (1) Present or cause to be presented any written or oral statement as part of, or in
31 support of or opposition to, a claim for payment or other benefit pursuant to an
32 insurance policy, knowing that the statement contains any false or misleading
33 information concerning any material fact.

34 (2) Prepare or make any written or oral statement that is intended to be presented
35 to any insurer or any insurance claimant in connection with, or in support of or
36 opposition to, any claim or payment or other benefit pursuant to an insurance
37 policy, knowing that the statement contains any false or misleading information
38 concerning any material fact.

39 (3) Conceal, or knowingly fail to disclose the occurrence of, an event that affects
40 any person's initial or continued right or entitlement to any insurance benefit or
41 payment, or the amount of any benefit or payment to which the person is entitled.

42 (4) Prepare or make any written or oral statement, intended to be presented to
43 any insurer or producer for the purpose of obtaining a motor vehicle insurance

1 policy, that the person to be the insured resides or is domiciled in this state when,
2 in fact, that person resides or is domiciled in a state other than this state.

3 (c)(1) Every person who violates paragraph (1), (2), (3), (4), or (5) of
4 subdivision (a) is guilty of a felony punishable by imprisonment in the state prison
5 for two, three, or five years, and by a fine not exceeding fifty thousand dollars
6 (\$50,000), unless the value of the fraud exceeds fifty thousand dollars (\$50,000),
7 in which event the fine may not exceed double of the value of the fraud.

8 (2) Every person who violates paragraph (6), (7), (8), or (9) of subdivision (a) is
9 guilty of a public offense.

10 (A) Where the claim or amount at issue exceeds four hundred dollars (\$400), the
11 offense is punishable by imprisonment in the state prison for two, three, or five
12 years, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both that
13 imprisonment and fine, unless the value of the fraud exceeds fifty thousand dollars
14 (\$50,000), in which event the fine may not exceed double the value of the fraud, or
15 by imprisonment in a county jail not to exceed one year, by a fine of not more than
16 one thousand dollars (\$1,000), or by both that imprisonment and fine.

17 (B) Where the claim or amount at issue is four hundred dollars (\$400) or less,
18 the offense is punishable by imprisonment in a county jail not to exceed six
19 months, or by a fine of not more than one thousand dollars (\$1,000), or by both
20 that imprisonment and fine, unless the aggregate amount of the claims or amount
21 at issue exceeds four hundred dollars (\$400) in any 12-consecutive-month period,
22 in which case the claims or amounts may be charged as in subparagraph (A).

23 (3) Every person who violates paragraph (1), (2), (3), or (4) of subdivision (b)
24 shall be punished by imprisonment in the state prison for two, three, or five years,
25 or by a fine not exceeding fifty thousand dollars (\$50,000), unless the value of the
26 fraud exceeds fifty thousand dollars (\$50,000), in which event the fine may not
27 exceed double the value of the fraud, or by both that imprisonment and fine; or by
28 imprisonment in a county jail not to exceed one year, or by a fine of not more than
29 one thousand five hundred dollars (\$1,500), or by both that imprisonment and fine.

30 (d) Notwithstanding any other provision of law, probation shall not be granted
31 to, nor shall the execution or imposition of a sentence be suspended for, any adult
32 person convicted of felony violations of this section who previously has been
33 convicted of felony violations of this section or Section 548, or of Section 1871.4
34 of the Insurance Code, or former Section 556 of the Insurance Code, or former
35 Section 1871.1 of the Insurance Code as an adult under charges separately brought
36 and tried two or more times. The existence of any fact that would make a person
37 ineligible for probation under this subdivision shall be alleged in the information
38 or indictment, and either admitted by the defendant in an open court, or found to
39 be true by the jury trying the issue of guilt or by the court where guilt is
40 established by plea of guilty or nolo contendere or by trial by the court sitting
41 without a jury.

1 Except when the existence of the fact was not admitted or found to be true or the
2 court finds that a prior felony conviction was invalid, the court shall not strike or
3 dismiss any prior felony convictions alleged in the information or indictment.

4 This subdivision does not prohibit the adjournment of criminal proceedings
5 pursuant to Division 3 (commencing with Section 3000) or Division 6
6 (commencing with Section 6000) of the Welfare and Institutions Code.

7 (e) Except as otherwise provided in subdivision (f), any person who violates
8 subdivision (a) or (b) and who has a prior felony conviction of an offense set forth
9 in either subdivision (a) or (b), in Section 548, in Section 1871.4 of the Insurance
10 Code, in former Section 556 of the Insurance Code, or in former Section 1871.1 of
11 the Insurance Code shall receive a two-year enhancement for each prior felony
12 conviction in addition to the sentence provided in subdivision (c). The existence of
13 any fact that would subject a person to a penalty enhancement shall be alleged in
14 the information or indictment and either admitted by the defendant in open court,
15 or found to be true by the jury trying the issue of guilt or by the court where guilt
16 is established by plea of guilty or nolo contendere or by trial by the court sitting
17 without a jury. Any person who violates this section shall be subject to appropriate
18 orders of restitution pursuant to Section 13967 of the Government Code.

19 (f) Any person who violates paragraph (3) of subdivision (a) and who has two
20 prior felony convictions for a violation of paragraph (3) of subdivision (a) shall
21 receive a five-year enhancement in addition to the sentence provided in
22 subdivision (c). ~~The existence of any fact that would subject a person to a penalty
23 enhancement shall be alleged in the information or indictment and either admitted
24 by the defendant in open court, or found to be true by the jury trying the issue of
25 guilt or by the court where guilt is established by plea of guilty or nolo contendere
26 or by trial by the court sitting without a jury.~~

27 ~~(g) Except as otherwise provided in Section 12022.7, any person who violates
28 paragraph (3) of subdivision (a) shall receive a two-year enhancement for each
29 person other than an accomplice who suffers serious bodily injury resulting from
30 the vehicular collision or accident in a violation of paragraph (3) of subdivision
31 The sentence for a violation of paragraph (3) of subdivision (a) may be subject to
32 enhancement under Section 17586.~~

33 (h) This section shall not be construed to preclude the applicability of any other
34 provision of criminal law or equitable remedy that applies or may apply to any act
35 committed or alleged to have been committed by a person.

36 (i) Any fine imposed pursuant to this section shall be doubled if the offense was
37 committed in connection with any claim pursuant to any automobile insurance
38 policy in an auto insurance fraud crisis area designated by the Insurance
39 Commissioner pursuant to Article 4.6 (commencing with Section 1874.90) of
40 Chapter 12 of Part 2 of Division 1 of the Insurance Code.

41 **Comment.** Former language from Section 550(g) is continued without substantive change in
42 Section 17586(a). A cross-reference to Section 17586 has been added.

1 The second sentence of subdivision (f) is redundant and is not continued. See Section
2 1170.1(e). The introductory clause of subdivision (g) is redundant and is not continued. See
3 Section 17560. These are technical, nonsubstantive changes.

4  **Note.** The second sentence of subdivision (f) appears to be redundant with respect to the
5 general rule provided in Section 1170.1(e) and is not continued in the proposed law. The
6 introductory clauses of subdivisions (a)(1), (a)(2), (c), and (d) appear to be redundant in light of
7 the general rule provided in proposed Section 17560 and are not continued in the proposed law.
8 The Commission believes that these are nonsubstantive changes, but would like to receive
9 comments on this point.

10 **Penal Code § 593a (amended). Tree spiking**

11 Sec. _____. Section 593a of the Penal Code is amended to read:

12 593a. (a) Every person who maliciously drives or places, in any tree, saw-log,
13 shingle-bolt, or other wood, any iron, steel, ceramic, or other substance sufficiently
14 hard to injure saws, knowing that the tree is intended to be harvested or that the
15 saw-log, shingle-bolt, or other wood is intended to be manufactured into any kind
16 of lumber or other wood product, is guilty of a felony. The sentence for a violation
17 of this section may be subject to enhancement under Section 17582.

18 ~~(b) Any person who violates subdivision (a) and causes bodily injury to another~~
19 ~~person other than an accomplice shall, in addition and consecutive to the~~
20 ~~punishment prescribed for that felony, be punished by an additional prison term of~~
21 ~~three years.~~

22 **Comment.** Former Section 593a(b) is continued without substantive change in Section 17582.
23 A cross-reference to Penal Code Section 17582 has been added.

24 **Penal Code § 600 (amended). Harm to or interference with horses or dogs used by peace**
25 **officers**

26 Sec. _____. Section 600 of the Penal Code is amended to read:

27 600. (a) Any person who willfully and maliciously and with no legal justification
28 strikes, beats, kicks, cuts, stabs, shoots with a firearm, administers any poison or
29 other harmful or stupefying substance to, or throws, hurls, or projects at, or places
30 any rock, object, or other substance which is used in such a manner as to be
31 capable of producing injury and likely to produce injury, on or in the path of, any
32 horse being used by, or any dog under the supervision of, any peace officer in the
33 discharge or attempted discharge of his or her duties, is guilty of a public offense.
34 If the injury inflicted is a serious injury, as defined in subdivision (c), the person
35 shall be punished by imprisonment in the state prison for 16 months, two or three
36 years, or in a county jail for not exceeding one year, or by a fine not exceeding two
37 thousand dollars (\$2,000), or by both a fine and imprisonment. If the injury
38 inflicted is not a serious injury, the person shall be punished by imprisonment in
39 the county jail for not exceeding one year, or by a fine not exceeding one thousand
40 dollars (\$1,000), or by both a fine and imprisonment.

1 (b) Any person who willfully and maliciously and with no legal justification
2 interferes with or obstructs any horse or dog being used by any peace officer in the
3 discharge or attempted discharge of his or her duties by frightening, teasing,
4 agitating, harassing, or hindering the horse or dog shall be punished by
5 imprisonment in a county jail for not exceeding one year, or by a fine not
6 exceeding one thousand dollars (\$1,000), or by both a fine and imprisonment.

7 (c) ~~Any person who, in violation of this section, and with intent to inflict such~~
8 ~~injury or death, personally causes the death, destruction, or serious physical injury~~
9 ~~including bone fracture, loss or impairment of function of any bodily member,~~
10 ~~wounds requiring extensive suturing, or serious crippling, of any horse or dog,~~
11 ~~shall, upon conviction of a felony under this section, in addition and consecutive to~~
12 ~~the punishment prescribed for the felony, be punished by an additional term of~~
13 ~~imprisonment in the state prison for one year.~~

14 (d) ~~Any person who, in violation of this section, and with the intent to inflict~~
15 ~~such injury, personally causes great bodily injury, as defined in Section 12022.7,~~
16 ~~to any person not an accomplice, shall, upon conviction of a felony under this~~
17 ~~section, in addition and consecutive to the punishment prescribed for the felony, be~~
18 ~~punished by an additional term of imprisonment in the state prison for two years~~
19 ~~unless the conduct described in this subdivision is an element of any other offense~~
20 ~~of which the person is convicted or receives an enhancement under Section~~
21 ~~12002.7. The sentence for a violation of this section may be subject to~~
22 ~~enhancement under Section 17587.~~

23 (e) (d) In any case in which a defendant is convicted of a violation of this
24 section, the defendant shall be ordered to make restitution to the agency owning
25 the animal and employing the peace officer for any veterinary bills, replacement
26 costs of the animal if it is disabled or killed, and the salary of the peace officer for
27 the period of time his or her services are lost to the agency.

28 **Comment.** Former Section 600(c) and (d) is continued without substantive change in Section
29 17587. A cross reference to Section 17587 has been added. A cross-reference to Penal Code
30 Section 175875 has been added.

31 The final clause in subdivision (d), “or receives an enhancement under Section 12022.7” is
32 redundant and is not continued. See Section 17560 (only single greatest enhancement for great
33 bodily injury applied). This is a technical, nonsubstantive change.

34  **Note.** The final clause of subdivision (d) appears to be redundant in light of the general rule
35 provided in proposed Section 17560. and is not continued in the proposed law. The Commission
36 believes that this is a nonsubstantive change, but would like to receive comments on this point.

37 **Penal Code § 666.7 (repealed). Schedule by imprisonment term of sentence enhancements**

38 Sec. _____. Section 666.7 of the Penal Code is repealed.

39 ~~666.7. It is the intent of the Legislature that this section serve merely as a~~
40 ~~nonsubstantive comparative reference of current sentence enhancement provisions.~~
41 ~~Nothing in this section shall have any substantive effect on the application of any~~
42 ~~sentence enhancement contained in any provision of law, including, but not~~

1 limited to, all of the following: omission of any sentence enhancement provision,
2 inclusion of any obsolete sentence enhancement provision, or inaccurate reference
3 or summary of a sentence enhancement provision.

4 It is the intent of the Legislature to amend this section as necessary to accurately
5 reflect current sentence enhancement provisions, including the addition of new
6 provisions and the deletion of obsolete provisions.

7 For the purposes of this section, the term “sentence enhancement” means an
8 additional term of imprisonment in the state prison added to the base term for the
9 underlying offense. A sentence enhancement is imposed because of the nature of
10 the offense at the time the offense was committed or because the defendant
11 suffered a qualifying prior conviction before committing the current offense.

12 (a) The provisions listed in this subdivision imposing a sentence enhancement of
13 one year imprisonment in the state prison may be referenced as Schedule A.

14 (1) Money laundering when the value of transactions exceeds fifty thousand
15 dollars (\$50,000), but is less than one hundred fifty thousand dollars (\$150,000)
16 (subpara. (A), para. (1), subd. (c), Sec. 186.10, Pen. C.).

17 (2) Commission of two or more related felonies, a material element of which is
18 fraud or embezzlement, which involve a pattern of related felony conduct,
19 involving the taking of more than one hundred thousand dollars (\$100,000) (para.
20 (3), subd. (a), Sec. 186.11, Pen. C.).

21 (3) Felony conviction of willful harm or injury to a child, involving female
22 genital mutilation (Sec. 273.4, Pen. C.).

23 (4) Prior conviction of felony hate crime with a current conviction of felony hate
24 crime (subd. (e), Sec. 422.75, Pen. C.).

25 (5) Harming, obstructing, or interfering with any horse or dog being used by any
26 peace officer in the discharge or attempted discharge of his or her duties and, with
27 the intent to so harm, obstruct, or interfere, personally causing the death,
28 destruction, or serious physical injury of any horse or dog (subd. (c), Sec. 600,
29 Pen. C.).

30 (6) Prior prison term with current felony conviction (subd. (b), Sec. 667.5, Pen.
31 C.).

32 (7) Commission of any specified offense against a person who is 65 years of age
33 or older, blind, a paraplegic or quadriplegic, or under 14 years of age (subd. (a),
34 Sec. 667.9, Pen. C.).

35 (8) Showing child pornography to a minor prior to or during the commission or
36 attempted commission of any lewd or lascivious act with the minor (subd. (a), Sec.
37 667.15, Pen. C.).

38 (9) Felony conviction of forgery, grand theft, or false pretenses as part of plan or
39 scheme to defraud an owner in connection with repairs to a structure damaged by a
40 natural disaster (Sec. 667.16, Pen. C.).

41 (10) Impersonating a peace officer during the commission of a felony (Sec.
42 667.17, Pen. C.).

1 ~~(11) Felony conviction of any specified offense, including, but not limited to,~~
2 ~~forgery, grand theft, and false pretenses, as part of plan or scheme to defraud an~~
3 ~~owner in connection with repairs to a structure damaged by natural disaster with~~
4 ~~prior felony conviction of any of those offenses (Sec. 670, Pen. C.).~~

5 ~~(12) Commission or attempted commission of a felony while armed with a~~
6 ~~firearm (para. (1), subd. (a), Sec. 12022, Pen. C.).~~

7 ~~(13) Personally using a deadly or dangerous weapon in the commission or~~
8 ~~attempted commission of a felony (para. (1), subd. (b), Sec. 12022, Pen. C.).~~

9 ~~(14) Taking, damaging, or destroying any property in the commission or~~
10 ~~attempted commission of a felony with the intent to cause that taking, damage, or~~
11 ~~destruction when the loss exceeds fifty thousand dollars (\$50,000) (para. (1), subd.~~
12 ~~(a), Sec. 12022.6, Pen. C.).~~

13 ~~(15) Transferring, lending, selling, or giving any assault weapon to a minor~~
14 ~~(para. (2), subd. (a), Sec. 12280, Pen. C.).~~

15 ~~(16) Manufacturing, causing to be manufactured, distributing, transporting,~~
16 ~~importing, keeping for sale, offering or exposing for sale, giving, or lending any~~
17 ~~assault weapon while committing another crime (subd. (c), Sec. 12280, Pen. C.).~~

18 ~~(17) Inducing, employing, or using a minor to commit a drug offense involving~~
19 ~~heroin, cocaine, or cocaine base, or unlawfully furnishing one of these controlled~~
20 ~~substances to a minor, upon the grounds of, or within, a church, playground, youth~~
21 ~~center, child day care facility, or public swimming pool during business hours or~~
22 ~~whenever minors are using the facility (para. (1), subd. (a), Sec. 11353.1, H.&~~
23 ~~S.C.).~~

24 ~~(18) Inducing another person to commit a drug offense as part of the drug~~
25 ~~transaction for which the defendant is convicted when the value of the controlled~~
26 ~~substance involved exceeds five hundred thousand dollars (\$500,000) (para. (1),~~
27 ~~subd. (a), Sec. 11356.5, H.& S.C.).~~

28 ~~(19) Manufacturing, compounding, converting, producing, deriving, processing,~~
29 ~~or preparing methamphetamine or phencyclidine (PCP), or attempting to commit~~
30 ~~any of those acts, or possessing specified combinations of substances with the~~
31 ~~intent to manufacture either methamphetamine or phencyclidine (PCP), when the~~
32 ~~commission or attempted commission of the offense causes the death or great~~
33 ~~bodily injury of another person other than an accomplice (Sec. 11379.9, H.&~~
34 ~~S.C.).~~

35 ~~(20) Using a minor to commit a drug offense involving phencyclidine (PCP),~~
36 ~~methamphetamine, or lysergic acid diethylamide (LSD), or unlawfully furnishing~~
37 ~~one of these controlled substances to a minor, when the commission of the offense~~
38 ~~occurs upon the grounds of, or within, a church, playground, youth center, child~~
39 ~~day care facility, or public swimming pool during business hours or whenever~~
40 ~~minors are using the facility (para. (1), subd. (a), Sec. 11380.1, H.& S.C.).~~

41 ~~(21) Possessing for sale, or selling, heroin, cocaine, cocaine base,~~
42 ~~methamphetamine, or phencyclidine (PCP), when the commission of the offense~~

1 occurs upon the grounds of a public park, public library, or oceanfront beach (para.
2 (1), subd. (a), Sec. 11380.5, H.& S.C.).

3 ~~(22) Causing bodily injury or death to more than one victim in any one instance~~
4 ~~of driving under the influence of any alcoholic beverage or drug (Sec. 23558, Veh.~~
5 ~~C.).~~

6 ~~(23) Fraudulently appropriating food stamps, electronically transferred benefits,~~
7 ~~or authorizations to participate in the federal Food Stamp Program entrusted to a~~
8 ~~public employee, or knowingly using, transferring, selling, purchasing, or~~
9 ~~possessing, any of the same in an unauthorized manner, when the offense is~~
10 ~~committed by means of an electronic transfer of benefits in an amount exceeding~~
11 ~~fifty thousand dollars (\$50,000), but less than one hundred fifty thousand dollars~~
12 ~~(\$150,000) (subpara. (A), para. (1), subd. (h), Sec. 10980, W.& I.C.).~~

13 ~~(b) The provisions listed in this subdivision imposing a sentence enhancement of~~
14 ~~one, two, or three years' imprisonment in the state prison may be referenced as~~
15 ~~Schedule B.~~

16 ~~(1) Commission of a felony for the benefit of, at the direction of, or in~~
17 ~~association with any criminal street gang, with the specific intent to promote,~~
18 ~~further, or assist in any criminal conduct by gang members (para. (1), subd. (b),~~
19 ~~Sec. 186.22, Pen. C.).~~

20 ~~(2) Commission or attempted commission of a felony hate crime (subd. (a), Sec.~~
21 ~~422.75, Pen. C.).~~

22 ~~(3) Commission or attempted commission of a felony against the property of a~~
23 ~~public or private institution because the property is associated with a person or~~
24 ~~group of identifiable race, color, religion, nationality, country of origin, ancestry,~~
25 ~~gender, disability, or sexual orientation (subd. (b), Sec. 422.75, Pen. C.).~~

26 ~~(4) Felony conviction of unlawfully causing a fire of any structure, forest land,~~
27 ~~or property when the defendant has been previously convicted of arson or~~
28 ~~unlawfully causing a fire, or when a firefighter, peace officer, or emergency~~
29 ~~personnel suffered great bodily injury, or when the defendant proximately caused~~
30 ~~great bodily injury to more than one victim, or caused multiple structures to burn~~
31 ~~(Sec. 452.1, Pen. C.).~~

32 ~~(5) Carrying a loaded or unloaded firearm during the commission or attempted~~
33 ~~commission of any felony street gang crime (subd. (a), Sec. 12021.5, Pen. C.).~~

34 ~~(6) Personally using a deadly or dangerous weapon in the commission of~~
35 ~~carjacking or attempted carjacking (para. (2), subd. (b), Sec. 12022, Pen. C.).~~

36 ~~(7) Being a principal in the commission or attempted commission of any~~
37 ~~specified drug offense, knowing that another principal is personally armed with a~~
38 ~~firearm (subd. (d), Sec. 12022, Pen. C.).~~

39 ~~(8) Furnishing or offering to furnish a firearm to another for the purpose of~~
40 ~~aiding, abetting, or enabling that person or any other person to commit a felony~~
41 ~~(Sec. 12022.4, Pen. C.).~~

1 ~~(9) Selling, supplying, delivering, or giving possession or control of a firearm to~~
2 ~~any person within a prohibited class or to a minor when the firearm is used in the~~
3 ~~subsequent commission of a felony (para. (4), subd. (g), Sec. 12072, Pen. C.).~~

4 ~~(10) Inducing, employing, or using a minor who is at least four years younger~~
5 ~~than the defendant to commit a drug offense involving any specified controlled~~
6 ~~substance, including, but not limited to, heroin, cocaine, and cocaine base, or~~
7 ~~unlawfully providing one of these controlled substances to a minor (para. (3),~~
8 ~~subd. (a), Sec. 11353.1, H.& S.C.).~~

9 ~~(11) Prior conviction of inducing, employing, or using a minor to commit a drug~~
10 ~~offense involving cocaine base, or unlawfully providing cocaine base to a minor~~
11 ~~that resulted in a prison sentence with a current conviction of the same offense~~
12 ~~(subd. (a), Sec. 11353.4, H.& S.C.).~~

13 ~~(12) Prior conviction of inducing, employing, or using a minor to commit a drug~~
14 ~~offense involving cocaine base, or unlawfully providing cocaine base to a minor~~
15 ~~with a current conviction of the same offense involving a minor who is 14 years of~~
16 ~~age or younger (subd. (b), Sec. 11353.4, H.& S.C.).~~

17 ~~(13) Inducing, employing, or using a minor who is at least four years younger~~
18 ~~than the defendant to commit a drug offense involving any specified controlled~~
19 ~~substance, including, but not limited to, phencyclidine (PCP), methamphetamine,~~
20 ~~and lysergic acid diethylamide (LSD), or unlawfully providing one of these~~
21 ~~controlled substances to a minor (para. (3), subd. (a), Sec. 11380.1, H.& S.C.).~~

22 ~~(14) Causing great bodily injury or a substantial probability that death could~~
23 ~~result by the knowing disposal, transport, treatment, storage, burning, or~~
24 ~~incineration of any hazardous waste at a facility without permits or at an~~
25 ~~unauthorized point (subd. (e), Sec. 25189.5, and subd. (c), Sec. 25189.7, H.&~~
26 ~~S.C.).~~

27 ~~(c) The provisions listed in this subdivision imposing a sentence enhancement of~~
28 ~~one, two, or five years' imprisonment in the state prison may be referenced as~~
29 ~~Schedule C.~~

30 ~~(1) Wearing a bullet-resistant body vest in the commission or attempted~~
31 ~~commission of a violent offense (subd. (b), Sec. 12022.2, Pen. C.).~~

32 ~~(2) Commission or attempted commission of any specified sex offense while~~
33 ~~armed with a firearm or deadly weapon (subd. (b), Sec. 12022.3, Pen. C.).~~

34 ~~(d) The provisions listed in this subdivision imposing a sentence enhancement of~~
35 ~~two years' imprisonment in the state prison may be referenced as Schedule D.~~

36 ~~(1) Money laundering when the value of the transactions exceeds one hundred~~
37 ~~fifty thousand dollars (\$150,000), but is less than one million dollars (\$1,000,000)~~
38 ~~(subpara. (B), para. (1), subd. (c), Sec. 186.10, Pen. C.).~~

39 ~~(2) Commission of two or more related felonies, a material element of which is~~
40 ~~fraud or embezzlement, which involve a pattern of related felony conduct,~~
41 ~~involving the taking of more than one hundred fifty thousand dollars (\$150,000)~~
42 ~~(para. (3), subd. (a), Sec. 186.11, Pen. C.).~~

1 ~~(3) Conviction of any specified felony sex offense that is committed after fleeing~~
2 ~~to this state under specified circumstances (subd. (d), Sec. 289.5, Pen. C.).~~

3 ~~(4) Prior conviction of any specified insurance fraud offense with current~~
4 ~~conviction of willfully injuring, destroying, secreting, abandoning, or disposing of~~
5 ~~any property insured against loss or damage by theft, embezzlement, or any~~
6 ~~casualty with the intent to defraud or prejudice the insurer (subd. (b), Sec. 548,~~
7 ~~Pen. C.).~~

8 ~~(5) Prior conviction of any specified insurance fraud offense with current~~
9 ~~conviction of knowingly presenting any false or fraudulent insurance claim or~~
10 ~~multiple claims for the same loss or injury, or knowingly causing or participating~~
11 ~~in a vehicular collision for the purpose of presenting any false or fraudulent claim,~~
12 ~~or providing false or misleading information or concealing information for purpose~~
13 ~~of insurance fraud (subd. (e), Sec. 550, Pen. C.).~~

14 ~~(6) Causing serious bodily injury as a result of knowingly causing or~~
15 ~~participating in a vehicular collision or accident for the purpose of presenting any~~
16 ~~false or fraudulent claim (subd. (g), Sec. 550, Pen. C.).~~

17 ~~(7) Harming, obstructing, or interfering with any horse or dog being used by any~~
18 ~~peace officer in the discharge or attempted discharge of his or her duties and, with~~
19 ~~the intent to cause great bodily injury, personally causing great bodily injury to~~
20 ~~any person other than an accomplice (subd. (d), Sec. 600, Pen. C.).~~

21 ~~(8) Prior conviction of any specified offense with current conviction of any of~~
22 ~~those offenses committed against a person who is 65 years of age or older, blind, a~~
23 ~~paraplegic or quadriplegic, or under 14 years of age (subd. (b), Sec. 667.9, Pen.~~
24 ~~C.).~~

25 ~~(9) Prior conviction for penetration of genital or anal openings by foreign or~~
26 ~~unknown object with current conviction of the same offense committed against a~~
27 ~~person who is 65 years of age or older, blind, deaf, developmentally disabled, a~~
28 ~~paraplegic or quadriplegic, or under 14 years of age (subd. (a), Sec. 667.10, Pen.~~
29 ~~C.).~~

30 ~~(10) Showing child pornography to minor prior to or during the commission or~~
31 ~~attempted commission of continuous sexual abuse of the minor (subd. (b), Sec.~~
32 ~~667.15, Pen. C.).~~

33 ~~(11) Primary care provider in a day care facility committing any specified felony~~
34 ~~sex offense against a minor entrusted to his or her care (subd. (a), Sec. 674, Pen.~~
35 ~~C.).~~

36 ~~(12) Commission of a felony offense while released from custody on bail or own~~
37 ~~recognizance (subd. (b), Sec. 12022.1, Pen. C.).~~

38 ~~(13) Taking, damaging, or destroying any property in the commission or~~
39 ~~attempted commission of a felony with the intent to cause that taking, damage, or~~
40 ~~destruction when the loss exceeds one hundred fifty thousand dollars (\$150,000)~~
41 ~~(para. (2), subd. (a), Sec. 12022.6, Pen. C.).~~

42 ~~(14) Inducing, employing, or using a minor to commit a drug offense involving~~
43 ~~heroin, cocaine, or cocaine base, or unlawfully furnishing one of these controlled~~

1 substances to a minor, upon, or within 1,000 feet of, the grounds of a school
2 during school hours or whenever minors are using the facility (para. (2), subd. (a),
3 Sec. 11353.1, H.& S.C.).

4 (15) ~~Inducing another person to commit a drug offense as part of the drug
5 transaction for which the defendant is convicted when the value of the controlled
6 substance involved exceeds two million dollars (\$2,000,000) (para. (2), subd. (a),
7 Sec. 11356.5, H.& S.C.).~~

8 (16) ~~Manufacturing, compounding, converting, producing, deriving, processing,
9 or preparing methamphetamine or phencyclidine (PCP), or attempting to commit
10 any of those acts, or possessing specified combinations of substances with the
11 intent to manufacture either methamphetamine or phencyclidine (PCP), when the
12 commission or attempted commission of the crime occurs in a structure where any
13 child under 16 years of age is present (subd. (a), Sec. 11379.7, H.& S.C.).~~

14 (17) ~~Using a minor to commit a drug offense involving phencyclidine (PCP),
15 methamphetamine, or lysergic acid diethylamide (LSD), or unlawfully furnishing
16 one of these controlled substances to a minor, upon, or within 1,000 feet of, the
17 grounds of a school during school hours or whenever minors are using the facility
18 (para. (2), subd. (a), Sec. 11380.1, H.& S.C.).~~

19 (18) ~~Prior felony conviction of any specified insurance fraud offense with a
20 current conviction of making false or fraudulent statements concerning a workers'
21 compensation claim (subd. (c), Sec. 1871.4, Ins. C.).~~

22 (19) ~~Prior felony conviction of making or causing to be made any knowingly
23 false or fraudulent statement of any fact material to the determination of the
24 premium, rate, or cost of any policy of workers' compensation insurance for the
25 purpose of reducing the premium, rate, or cost of the insurance with a current
26 conviction of the same offense (subd. (b), Sec. 11760, Ins. C.).~~

27 (20) ~~Prior felony conviction of making or causing to be made any knowingly
28 false or fraudulent statement of any fact material to the determination of the
29 premium, rate, or cost of any policy of workers' compensation insurance issued or
30 administered by the State Compensation Insurance Fund for the purpose of
31 reducing the premium, rate, or cost of the insurance with a current conviction of
32 the same offense (subd. (b), Sec. 11880, Ins. C.).~~

33 (21) ~~Fraudulently appropriating food stamps, electronically transferred benefits,
34 or authorizations to participate in the federal Food Stamp Program entrusted to a
35 public employee, or knowingly using, transferring, selling, purchasing, or
36 possessing, any of the same in an unauthorized manner, when the offense is
37 committed by means of an electronic transfer of benefits in an amount exceeding
38 one hundred fifty thousand dollars (\$150,000), but less than one million dollars
39 (\$1,000,000) (subpara. (B), para. (1), subd. (h), Sec. 10980, W.& I.C.).~~

40 (e) ~~The provisions listed in this subdivision imposing a sentence enhancement of
41 two, three, or four years' imprisonment in the state prison may be referenced as
42 Schedule E.~~

1 ~~(1) Commission of a felony for the benefit of, at the direction of, or in~~
2 ~~association with any criminal street gang, with the specific intent to promote,~~
3 ~~further, or assist in any criminal conduct by gang members, and on the grounds of,~~
4 ~~or within 1,000 feet of, a school during school hours or when minors are using the~~
5 ~~facility (para. (2), subd. (b), Sec. 186.22, Pen. C.).~~

6 ~~(2) Acting in concert with another person or aiding or abetting another person in~~
7 ~~committing or attempting to commit a felony hate crime (subd. (c), Sec. 422.75,~~
8 ~~Pen. C.).~~

9 ~~(3) Carrying a loaded or unloaded firearm together with a detachable shotgun~~
10 ~~magazine, a detachable pistol magazine, a detachable magazine, or a belt-feeding~~
11 ~~device during the commission or attempted commission of any felony street gang~~
12 ~~crime (subd. (b), Sec. 12021.5, Pen. C.).~~

13 ~~(f) The provisions listed in this subdivision imposing a sentence enhancement of~~
14 ~~two, three, or five years' imprisonment in the state prison may be referenced as~~
15 ~~Schedule F.~~

16 ~~(1) Commission of two or more related felonies, a material element of which is~~
17 ~~fraud or embezzlement, which involve a pattern of related felony conduct,~~
18 ~~involving the taking of more than five hundred thousand dollars (\$500,000) (para.~~
19 ~~(2), subd. (a), Sec. 186.11, Pen. C.).~~

20 ~~(g) The provisions listed in this subdivision imposing a sentence enhancement of~~
21 ~~three years' imprisonment in the state prison may be referenced as Schedule G.~~

22 ~~(1) Money laundering when the value of transactions exceeds one million dollars~~
23 ~~(\$1,000,000), but is less than two million five hundred thousand dollars~~
24 ~~(\$2,500,000) (subpara. (C), para. (1), subd. (c), Sec. 186.10, Pen. C.).~~

25 ~~(2) Commission of a felony for the benefit of, at the direction of, or in~~
26 ~~association with any criminal street gang, with the specific intent to promote,~~
27 ~~further, or assist in any criminal conduct by gang members, if also convicted of a~~
28 ~~felony violation of witness or victim intimidation involving a credible threat of~~
29 ~~violence or death made to the witness or victim of a violent felony for the purpose~~
30 ~~of preventing or dissuading the witness or victim from attending or giving~~
31 ~~testimony at any trial for a violent felony (para. (5), subd. (b), Sec. 186.22, Pen.~~
32 ~~C.).~~

33 ~~(3) Willfully mingling any poison or harmful substance which may cause death~~
34 ~~if ingested, or which causes the infliction of great bodily injury on any person,~~
35 ~~with any food, drink, medicine, or pharmaceutical product or willfully placing~~
36 ~~such poison or harmful substance in any spring, well, reservoir, or public water~~
37 ~~supply (subd. (a), Sec. 347, Pen. C.).~~

38 ~~(4) Causing great bodily injury by willfully causing or permitting any elder or~~
39 ~~dependent adult to suffer, or inflicting pain or mental suffering upon, or~~
40 ~~endangering the health of, an elder or dependent adult when the victim is under 70~~
41 ~~years of age (subpara. (A), para. (2), subd. (b), Sec. 368, Pen. C.).~~

42 ~~(5) Maliciously driving or placing, in any tree, saw-log, shingle-bolt, or other~~
43 ~~wood, any iron, steel, ceramic, or other substance sufficiently hard to injure saws~~

1 and causing bodily injury to another person other than an accomplice (subd. (b),
2 Sec. 593a, Pen. C.).

3 (6) Prior prison term for violent felony with current violent felony conviction
4 (subd. (a), Sec. 667.5, Pen. C.).

5 (7) Commission of any specified felony sex offense by a primary care provider
6 in a day care facility against a minor entrusted to his or her care while voluntarily
7 acting in concert with another (subd. (b), Sec. 674, Pen. C.).

8 (8) Commission or attempted commission of a felony while armed with an
9 assault weapon or a machinegun (para. (2), subd. (a), Sec. 12022, Pen. C.).

10 (9) Taking, damaging, or destroying any property in the commission or
11 attempted commission of a felony with the intent to cause that taking, damage, or
12 destruction when the loss exceeds one million dollars (\$1,000,000) (para. (3),
13 subd. (a), Sec. 12022.6, Pen. C.).

14 (10) Personally inflicting great bodily injury on any person other than an
15 accomplice in the commission or attempted commission of a felony (subd. (a),
16 Sec. 12022.7, Pen. C.).

17 (11) Administering by injection, inhalation, ingestion, or any other means, any
18 specified controlled substance against the victim's will by means of force,
19 violence, or fear of immediate and unlawful bodily injury to the victim or another
20 person for the purpose of committing a felony (Sec. 12022.75, Pen. C.).

21 (12) Commission of any specified sex offense with knowledge that the defendant
22 has acquired immune deficiency syndrome (AIDS) or with the knowledge that he
23 or she carries antibodies of the human immunodeficiency virus at the time of the
24 commission of the offense (Sec. 12022.85, Pen. C.).

25 (13) Inducing another person to commit a drug offense as part of the drug
26 transaction for which the defendant is convicted when the value of the controlled
27 substance involved exceeds five million dollars (\$5,000,000) (para. (3), subd. (a),
28 Sec. 11356.5, H.& S.C.).

29 (14) Prior conviction of any specified drug offense with current conviction of
30 any specified drug offense (subs. (a), (b), and (c), Sec. 11370.2, H.& S.C.).

31 (15) Commission of any specified drug offense involving a substance containing
32 heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine
33 (PCP), when the substance exceeds one kilogram or 30 liters (para. (1), subd. (a),
34 and para. (1), subd. (b), Sec. 11370.4, H.& S.C.).

35 (16) Manufacturing, compounding, converting, producing, deriving, processing,
36 or preparing any substance containing amphetamine, methamphetamine, or
37 phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of
38 those acts, when the substance exceeds three gallons or one pound (para. (1), subd.
39 (a), Sec. 11379.8, H.& S.C.).

40 (17) Four or more prior convictions of specified alcohol-related vehicle offenses
41 with current conviction of driving under the influence and causing great bodily
42 injury (subd. (c), Sec. 23190, Veh. C.).

1 ~~(18) Fraudulently appropriating food stamps, electronically transferred benefits,~~
2 ~~or authorizations to participate in the federal Food Stamp Program entrusted to a~~
3 ~~public employee, or knowingly using, transferring, selling, purchasing, or~~
4 ~~possessing, any of the same in an unauthorized manner, when the offense is~~
5 ~~committed by means of an electronic transfer of benefits in an amount exceeding~~
6 ~~one million dollars (\$1,000,000), but less than two million five hundred thousand~~
7 ~~dollars (\$2,500,000) (subpara. (C), para. (1), subd. (h), Sec. 10980, W.& I.C.).~~

8 ~~(h) The provisions listed in this subdivision imposing a sentence enhancement of~~
9 ~~three, four, or five years' imprisonment in the state prison may be referenced as~~
10 ~~Schedule H.~~

11 ~~(1) Commission of felony arson with prior conviction of arson or unlawfully~~
12 ~~starting a fire, or causing great bodily injury to a firefighter, peace officer, other~~
13 ~~emergency personnel, or multiple victims, or causing the burning of multiple~~
14 ~~structures, or using an accelerator or ignition delay device (subd. (a), Sec. 451.1,~~
15 ~~Pen. C.).~~

16 ~~(2) Commission or attempted commission of any specified drug offense while~~
17 ~~personally armed with a firearm (subd. (c), Sec. 12022, Pen. C.).~~

18 ~~(3) Personally inflicting great bodily injury under circumstances involving~~
19 ~~domestic violence in the commission or attempted commission of a felony (subd.~~
20 ~~(d), Sec. 12022.7, Pen. C.).~~

21 ~~(4) Commission of any specified drug offense involving cocaine base, heroin, or~~
22 ~~methamphetamine, or a conspiracy to commit any of those offenses, upon the~~
23 ~~grounds of, or within 1,000 feet of, a school during school hours or when minors~~
24 ~~are using the facility (subd. (b), Sec. 11353.6, H.& S.C.).~~

25 ~~(5) Commission of any specified drug offense involving cocaine base, heroin, or~~
26 ~~methamphetamine, or a conspiracy to violate any of those offenses, involving a~~
27 ~~minor who is at least four years younger than the defendant (subd. (c), Sec.~~
28 ~~11353.6, H.& S.C.).~~

29 ~~(i) The provisions listed in this subdivision imposing a sentence enhancement of~~
30 ~~3, 4, or 10 years' imprisonment in the state prison may be referenced as Schedule~~
31 ~~I.~~

32 ~~(1) Commission or attempted commission of any felony while armed with a~~
33 ~~firearm and in the immediate possession of ammunition for the firearm designed~~
34 ~~primarily to penetrate metal or armor (subd. (a), Sec. 12022.2, Pen. C.).~~

35 ~~(2) Commission or attempted commission of any specified sex offense while~~
36 ~~using a firearm or deadly weapon (subd. (a), Sec. 12022.3, Pen. C.).~~

37 ~~(3) Commission or attempted commission of a felony while personally using a~~
38 ~~firearm (para. (1), subd. (a), Sec. 12022.5, Pen. C.).~~

39 ~~(4) Commission or attempted commission of any specified drug offense while~~
40 ~~personally using a firearm (subd. (c), Sec. 12022.5, Pen. C.).~~

41 ~~(j) The provisions listed in this subdivision imposing a sentence enhancement of~~
42 ~~four years' imprisonment in the state prison may be referenced as Schedule J.~~

1 ~~(1) Money laundering when the value of transactions exceeds two million five~~
2 ~~hundred thousand dollars (\$2,500,000) (subpara. (D), para. (1), subd. (c), Sec.~~
3 ~~186.10, Pen. C.).~~

4 ~~(2) Prior conviction of willfully inflicting upon a child any cruel or inhuman~~
5 ~~corporal punishment or injury resulting in a traumatic condition with current~~
6 ~~conviction of that offense (subd. (b), Sec. 273d, Pen. C.).~~

7 ~~(3) Taking, damaging, or destroying any property in the commission or~~
8 ~~attempted commission of a felony with the intent to cause that taking, damage, or~~
9 ~~destruction when the loss exceeds two million five hundred thousand dollars~~
10 ~~(\$2,500,000) (para. (4), subd. (a), Sec. 12022.6, Pen. C.).~~

11 ~~(4) Personally, willfully, and maliciously discharging a firearm from a motor~~
12 ~~vehicle at another person other than an occupant of a motor vehicle and causing a~~
13 ~~victim to suffer paralysis or paraparesis of a major body part (para. (1), subd. (b),~~
14 ~~Sec. 12022.9, Pen. C.).~~

15 ~~(5) Personally, willfully, and maliciously discharging a firearm from a motor~~
16 ~~vehicle at another occupied motor vehicle and causing a victim to suffer paralysis~~
17 ~~or paraparesis of a major body part (para. (2), subd. (b), Sec. 12022.9, Pen. C.).~~

18 ~~(6) Willfully causing or permitting any child to suffer, or inflicting on the child~~
19 ~~unjustifiable physical pain or injury that results in death under circumstances or~~
20 ~~conditions likely to produce great bodily harm or death, or, having the care or~~
21 ~~custody of any child, willfully causing or permitting that child to be injured or~~
22 ~~harmed under circumstances likely to produce great bodily harm or death, when~~
23 ~~that injury or harm results in death (Sec. 12022.95, Pen. C.).~~

24 ~~(7) Fraudulently appropriating food stamps, electronically transferred benefits,~~
25 ~~or authorizations to participate in the federal Food Stamp Program entrusted to a~~
26 ~~public employee, or knowingly using, transferring, selling, purchasing, or~~
27 ~~possessing, any of the same in an unauthorized manner, when the offense is~~
28 ~~committed by means of an electronic transfer of benefits in an amount exceeding~~
29 ~~two million five hundred thousand dollars (\$2,500,000) (subpara. (D), para. (1),~~
30 ~~subd. (h), Sec. 10980, W.& I.C.).~~

31 ~~(k) The provisions listed in this subdivision imposing a sentence enhancement of~~
32 ~~4, 5, or 10 years' imprisonment in the state prison may be referenced as Schedule~~
33 ~~K.~~

34 ~~(1) Commission or attempted commission of a felony while personally using a~~
35 ~~firearm with prior conviction of carjacking or attempted carjacking (para. (2),~~
36 ~~subd. (a), Sec. 12022.5, Pen. C.).~~

37 ~~(l) The provisions listed in this subdivision imposing a sentence enhancement of~~
38 ~~five years' imprisonment in the state prison may be referenced as Schedule L.~~

39 ~~(1) Using sex offender registration information to commit a felony (subd. (q),~~
40 ~~Sec. 290, and para. (1), subd. (b), Sec. 290.4, Pen. C.).~~

41 ~~(2) Causing great bodily injury by willfully causing or permitting any elder or~~
42 ~~dependent adult to suffer, or inflicting pain or mental suffering upon, or~~

1 ~~endangering the health of, an elder or dependent adult when the victim is 70 years~~
2 ~~of age or older (subpara. (B), para. (2), subd. (b), Sec. 368, Pen. C.).~~

3 ~~(3) Causing death by willfully causing or permitting any elder or dependent adult~~
4 ~~to suffer, or inflicting pain or mental suffering upon, or endangering the health of,~~
5 ~~an elder or dependent adult when the victim is under 70 years of age (subpara. (A),~~
6 ~~para. (3), subd. (b), Sec. 368, Pen. C.).~~

7 ~~(4) Two prior felony convictions of knowingly causing or participating in a~~
8 ~~vehicular collision or accident for the purpose of presenting any false or fraudulent~~
9 ~~claim with current conviction of the same (subd. (f), Sec. 550, Pen. C.).~~

10 ~~(5) Prior conviction of a serious felony with current conviction of a serious~~
11 ~~felony (para. (1), subd. (a), Sec. 667, Pen. C.).~~

12 ~~(6) Prior conviction of any specified sex offense with current conviction of lewd~~
13 ~~and lascivious acts with a child under 14 years of age (subd. (a), Sec. 667.51, Pen.~~
14 ~~C.).~~

15 ~~(7) Prior conviction of any specified sex offense with current conviction of any~~
16 ~~of those sex offenses (subd. (a), Sec. 667.6, Pen. C.).~~

17 ~~(8) Kidnapping or carrying away any child under 14 years of age with the intent~~
18 ~~to permanently deprive the parent or legal guardian custody of that child (Sec.~~
19 ~~667.85, Pen. C.).~~

20 ~~(9) Personally inflicting great bodily injury on any person other than an~~
21 ~~accomplice in the commission or attempted commission of a felony that causes the~~
22 ~~victim to become comatose due to a brain injury or to suffer paralysis of a~~
23 ~~permanent nature (subd. (b), Sec. 12022.7, Pen. C.).~~

24 ~~(10) Personally inflicting great bodily injury on another person who is 70 years~~
25 ~~of age or older other than an accomplice in the commission or attempted~~
26 ~~commission of a felony (subd. (c), Sec. 12022.7, Pen. C.).~~

27 ~~(11) Inflicting great bodily injury on any victim in the commission or attempted~~
28 ~~commission of any specified sex offense (Sec. 12022.8, Pen. C.).~~

29 ~~(12) Personally and intentionally inflicting injury upon a pregnant woman during~~
30 ~~the commission or attempted commission of a felony that results in the termination~~
31 ~~of the pregnancy when the defendant knew or reasonably should have known that~~
32 ~~the victim was pregnant (subd. (a), Sec. 12022.9, Pen. C.).~~

33 ~~(13) Using information disclosed to the licensee of a community care facility by~~
34 ~~a prospective client regarding his or her status as a sex offender to commit a felony~~
35 ~~(subd. (c), Sec. 1522.01, H.& S.C.).~~

36 ~~(14) Commission of any specified drug offense involving a substance containing~~
37 ~~heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine~~
38 ~~(PCP), when the substance exceeds 4 kilograms or 100 liters (para. (2), subd. (a),~~
39 ~~and para. (2), subd. (b), Sec. 11370.4, H.& S.C.).~~

40 ~~(15) Manufacturing, compounding, converting, producing, deriving, processing,~~
41 ~~or preparing methamphetamine or phencyclidine (PCP), or attempting to commit~~
42 ~~any of those acts, or possessing specified combinations of substances with the~~
43 ~~intent to manufacture either methamphetamine or phencyclidine (PCP), when the~~

1 ~~commission of the crime causes any child under 16 years of age to suffer great~~
2 ~~bodily injury (subd. (b), Sec. 11379.7, H.& S.C.).~~

3 ~~(16) Manufacturing, compounding, converting, producing, deriving, processing,~~
4 ~~or preparing any substance containing amphetamine, methamphetamine, or~~
5 ~~phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of~~
6 ~~those acts, when the substance exceeds 10 gallons or three pounds (para. (2), subd.~~
7 ~~(a), Sec. 11379.8, H.& S.C.).~~

8 ~~(17) Fleeing the scene of the crime after commission of vehicular manslaughter~~
9 ~~(subd. (c), Sec. 20001, Veh. C.).~~

10 ~~(m) The provisions listed in this subdivision imposing a sentence enhancement~~
11 ~~of 5, 6, or 10 years' imprisonment in the state prison may be referenced as~~
12 ~~Schedule M.~~

13 ~~(1) Discharging a firearm at an occupied motor vehicle in the commission or~~
14 ~~attempted commission of a felony which caused great bodily injury or death to~~
15 ~~another person (para. (1), subd. (b), Sec. 12022.5, Pen. C.).~~

16 ~~(2) Commission or attempted commission of a felony while personally using an~~
17 ~~assault weapon or a machinegun (para. (2), subd. (b), Sec. 12022.5, Pen. C.).~~

18 ~~(3) Discharging a firearm from a motor vehicle in the commission or attempted~~
19 ~~commission of a felony with the intent to inflict great bodily injury or death and~~
20 ~~causing great bodily injury or death (Sec. 12022.55, Pen. C.).~~

21 ~~(n) The provisions listed in this subdivision imposing a sentence enhancement of~~
22 ~~seven years' imprisonment in the state prison may be referenced as Schedule N.~~

23 ~~(1) Causing death by willfully causing or permitting any elder or dependent adult~~
24 ~~to suffer, or inflicting pain or mental suffering upon, or endangering the health of,~~
25 ~~an elder or dependent adult when the victim is 70 years of age or older (subpara.~~
26 ~~(B), para. (3), subd. (b), Sec. 368, Pen. C.).~~

27 ~~(o) The provisions listed in this subdivision imposing a sentence enhancement of~~
28 ~~nine years' imprisonment in the state prison may be referenced as Schedule O.~~

29 ~~(1) Kidnapping victim for purpose of committing any specified felony sex~~
30 ~~offense (subd. (a), Sec. 667.8, Pen. C.).~~

31 ~~(p) The provisions listed in this subdivision imposing a sentence enhancement of~~
32 ~~10 years' imprisonment in the state prison may be referenced as Schedule P.~~

33 ~~(1) Two or more prior prison terms for any specified sex offense with current~~
34 ~~conviction of any of those sex offenses (subd. (b), Sec. 667.6, Pen. C.).~~

35 ~~(2) Commission or attempted commission of any specified felony offense while~~
36 ~~personally using a firearm (subd. (b), Sec. 12022.53, Pen. C.).~~

37 ~~(3) Commission of any specified drug offense involving a substance containing~~
38 ~~heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine~~
39 ~~(PCP), when the substance exceeds 10 kilograms or 200 liters (para. (3), subd. (a),~~
40 ~~and para. (3), subd. (b), Sec. 11370.4, H.& S.C.).~~

41 ~~(4) Manufacturing, compounding, converting, producing, deriving, processing,~~
42 ~~or preparing any substance containing amphetamine, methamphetamine, or~~
43 ~~phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of~~

1 ~~those acts, when the substance exceeds 25 gallons or 10 pounds (para. (3), subd.~~
2 ~~(a), Sec. 11379.8, H.& S.C.).~~

3 ~~(q) The provisions listed in this subdivision imposing a sentence enhancement of~~
4 ~~15 years' imprisonment in the state prison may be referenced as Schedule Q.~~

5 ~~(1) Kidnapping victim under 14 years of age for purpose of committing any~~
6 ~~specified felony sex offense (subd. (b), Sec. 667.8, Pen. C.).~~

7 ~~(2) Commission of any specified drug offense involving a substance containing~~
8 ~~heroin, cocaine base, cocaine, methamphetamine, amphetamine, or phencyclidine~~
9 ~~(PCP), when the substance exceeds 20 kilograms or 400 liters (para. (4), subd. (a),~~
10 ~~and para. (4), subd. (b), Sec. 11370.4, H.& S.C.).~~

11 ~~(3) Manufacturing, compounding, converting, producing, deriving, processing,~~
12 ~~or preparing any substance containing amphetamine, methamphetamine, or~~
13 ~~phencyclidine (PCP) or its analogs or precursors, or attempting to commit any of~~
14 ~~those acts, when the substance exceeds 105 gallons or 44 pounds (para. (4), subd.~~
15 ~~(a), Sec. 11379.8, H.& S.C.).~~

16 ~~(r) The provisions listed in this subdivision imposing a sentence enhancement of~~
17 ~~20 years' imprisonment in the state prison may be referenced as Schedule R.~~

18 ~~(1) Intentionally and personally discharging a firearm in the commission or~~
19 ~~attempted commission of any specified felony offense (subd. (c), Sec. 12022.53,~~
20 ~~Pen. C.).~~

21 ~~(2) Commission of any specified drug offense involving a substance containing~~
22 ~~heroin, cocaine base, or cocaine, when the substance exceeds 40 kilograms (para.~~
23 ~~(5), subd. (a), Sec. 11370.4, H.& S.C.).~~

24 ~~(s) The provisions listed in this subdivision imposing a sentence enhancement of~~
25 ~~25 years' imprisonment in the state prison may be referenced as Schedule S.~~

26 ~~(1) Commission of any specified drug offense involving a substance containing~~
27 ~~heroin, cocaine base, or cocaine, when the substance exceeds 80 kilograms (para.~~
28 ~~(6), subd. (a), Sec. 11370.4, H.& S.C.).~~

29 ~~(t) The provisions listed in this subdivision imposing a sentence enhancement of~~
30 ~~25 years to life imprisonment in the state prison may be referenced as Schedule T.~~

31 ~~(1) Intentionally and personally discharging a firearm in the commission or~~
32 ~~attempted commission of any specified felony offense and proximately causing~~
33 ~~great bodily injury to any person other than an accomplice (subd. (d), Sec.~~
34 ~~12022.53, Pen. C.).~~

35 **Comment.** Former Section 666.7 is continued without substantive change in Sections
36 17523.010-17523.120.

37 **Penal Code § 1170.1 (amended). Consecutive and aggregate terms**

38 Sec. _____. Section 1170.1 of the Penal Code is amended to read:

39 1170.1 (a) Except as otherwise provided by law, and subject to Section 654,
40 when any person is convicted of two or more felonies, whether in the same
41 proceeding or court or in different proceedings or courts, and whether by judgment
42 rendered by the same or by a different court, and a consecutive term of

1 imprisonment is imposed under Sections 669 and 1170, the aggregate term of
2 imprisonment for all these convictions shall be the sum of the principal term, the
3 subordinate term, and any additional term imposed for applicable enhancements
4 for prior convictions, prior prison terms, and Section 12022.1. The principal term
5 shall consist of the greatest term of imprisonment imposed by the court for any of
6 the crimes, including any term imposed for applicable specific enhancements. The
7 subordinate term for each consecutive offense shall consist of one-third of the
8 middle term of imprisonment prescribed for each other felony conviction for
9 which a consecutive term of imprisonment is imposed, and shall exclude any
10 specific enhancements. The subordinate term for each consecutive offense which
11 is a “violent felony,” as defined in any paragraph of subdivision (c) of Section
12 667.5, shall consist of one-third of the middle term of imprisonment prescribed for
13 each other felony conviction for an offense that is a violent felony for which a
14 consecutive term of imprisonment is imposed, and shall include one-third of the
15 term imposed for any specific enhancements applicable to those subordinate
16 offenses.

17 (b) When a consecutive term of imprisonment is imposed under Sections 669
18 and 1170 for two or more convictions for kidnapping, as defined in Section 207,
19 involving separate victims, the aggregate term shall be calculated as provided in
20 subdivision (a), except that the subordinate term for each subordinate kidnapping
21 conviction shall consist of the full middle term for each kidnapping conviction for
22 which a consecutive term of imprisonment is imposed and shall include the full
23 term imposed for specific enhancements applicable to those subordinate offenses.

24 (c) In the case of any person convicted of one or more felonies committed while
25 the person is confined in a state prison or is subject to reimprisonment for escape
26 from custody and the law either requires the terms to be served consecutively or
27 the court imposes consecutive terms, the term of imprisonment for all the
28 convictions that the person is required to serve consecutively shall commence
29 from the time the person would otherwise have been released from prison. If the
30 new offenses are consecutive with each other, the principal and subordinate terms
31 shall be calculated as provided in subdivision (a). This subdivision shall be
32 applicable in cases of convictions of more than one offense in different
33 proceedings, and convictions of more than one offense in the same or different
34 proceedings.

35 (d) When the court imposes a prison sentence for a felony pursuant to Section
36 1170, the court shall also impose the additional terms provided for any applicable
37 enhancements. The court shall also impose any other additional term that the court
38 determines in its discretion or as required by law shall run consecutive to the term
39 imposed under Section 1170. In considering the imposition of the additional term,
40 the court shall apply the sentencing rules of the Judicial Council.

41 (e) All enhancements shall be alleged in the accusatory pleading and either
42 admitted by the defendant in open court or found to be true by the trier of fact.

1 ~~(f) When two or more enhancements may be imposed for being armed with or~~
2 ~~using a dangerous or deadly weapon or a firearm in the commission of a single~~
3 ~~offense, only the greatest of those enhancements shall be imposed for that offense.~~
4 ~~This subdivision shall not limit the imposition of any other enhancements~~
5 ~~applicable to that offense, including an enhancement for the infliction of great~~
6 ~~bodily injury.~~

7 ~~(g) When two or more enhancements may be imposed for the infliction of great~~
8 ~~bodily injury in the commission of a single offense, only the greatest of those~~
9 ~~enhancements shall be imposed for that offense. This subdivision shall not limit~~
10 ~~the imposition of any other enhancements applicable to that offense, including an~~
11 ~~enhancement for being armed with or using a dangerous or deadly weapon or a~~
12 ~~firearm.~~

13 ~~(h) For any violation of an offense specified in Section 667.6, the number of~~
14 ~~enhancements that may be imposed shall not be limited, regardless of whether the~~
15 ~~enhancements are pursuant to this section, Section 667.6, or some other provision~~
16 ~~of law. Each of the enhancements shall be a full and separately served~~
17 ~~enhancement and shall not be merged with any term or with any other~~
18 ~~enhancement.~~

19 **Comment.** Former Section 1170.1 (f) and (g) are continued without substantive change in
20 Sections 17525 and 17560 respectively.

21 **Penal Code § 1170.2 (amended). Felonies committed prior to July 1, 1977**

22 SEC. _____. Section 1170.2 of the Penal Code is amended to read:

23 1170.2. (a) In the case of any inmate who committed a felony prior to July 1,
24 1977, who would have been sentenced under Section 1170 if he or she had
25 committed it after July 1, 1977, the Board of Prison Terms shall determine what
26 the length of time of imprisonment would have been under Section 1170 without
27 consideration of good-time credit and utilizing the middle term of the offense
28 bearing the longest term of imprisonment of which the prisoner was convicted
29 increased by any enhancements justified by matters found to be true and which
30 were imposed by the court at the time of sentencing for such felony. These matters
31 include: being armed with a deadly or dangerous weapon as specified in Section
32 211a, 460, 3024, or 12022 prior to July 1, 1977, which may result in a one-year
33 enhancement pursuant to the provisions of Section ~~12022~~ 17531; using a firearm
34 as specified in Section 12022.5 prior to July 1, 1977, which may result in a two-
35 ~~three-, four-, or 10-year~~ three-, four-, or 10-year enhancement pursuant to the provisions of Section
36 ~~12022.5~~ 17546; infliction of great bodily injury as specified in Section 213, 264,
37 or 461 prior to July 1, 1977, which may result in a three-year enhancement
38 pursuant to the provisions of Section ~~12022.7~~ 17565; any prior felony conviction
39 as specified in any statute prior to July 1, 1977, which prior felony conviction is
40 the equivalent of a prior prison term as defined in Section 667.5, which may result
41 in the appropriate enhancement pursuant to the provisions of Section 667.5; and
42 any consecutive sentence.

1 (b) If the calculation required under subdivision (a) is less than the time to be
2 served prior to a release date set prior to July 1, 1977, or if a release date had not
3 been set, the Board of Prison Terms shall establish the prisoner's parole date,
4 subject to subdivision (d), on the date calculated under subdivision (a) unless at
5 least two of the commissioners of the Board of Prison Terms after reviewing the
6 prisoner's file, determine that due to the number of crimes of which the prisoner
7 was convicted, or due to the number of prior convictions suffered by the prisoner,
8 or due to the fact that the prisoner was armed with a deadly weapon when the
9 crime was committed, or used a deadly weapon during the commission of the
10 crime, or inflicted or attempted to inflict great bodily injury on the victim of the
11 crime, the prisoner should serve a term longer than that calculated in subdivision
12 (a), in which event the prisoner shall be entitled to a hearing before a panel
13 consisting of at least two commissioners of the Board of Prison Terms as provided
14 for in Section 3041.5. The Board of Prison Terms shall notify each prisoner who is
15 scheduled for such a hearing within 90 days of July 1, 1977, or within 90 days of
16 the date the prisoner is received by or returned to the custody of the Department of
17 Corrections, whichever is later. The hearing shall be held before October 1, 1978,
18 or within 120 days of receipt of the prisoner, whichever is later. It is the intent of
19 the Legislature that the hearings provided for in this subdivision shall be
20 accomplished in the most expeditious manner possible. At the hearing the prisoner
21 shall be entitled to be represented by legal counsel, a release date shall be set, and
22 the prisoner shall be informed in writing of the extraordinary factors specifically
23 considered determinative and on what basis the release date has been calculated. In
24 fixing a term under this section the board shall be guided by, but not limited to, the
25 term which reasonably could be imposed on a person who committed similar
26 offense under similar circumstances on or after July 1, 1977, and further, the board
27 shall be guided by the following finding and declaration hereby made by the
28 Legislature: that the necessity to protect the public from repetition of extraordinary
29 crimes of violence against the person is the paramount consideration.

30 (c) Nothing in this section shall be deemed to keep an inmate in the custody of
31 the Department of Corrections for a period of time longer than he would have been
32 kept in its custody under the provisions of law applicable to him prior to July 1,
33 1977. Nothing in this section shall be deemed to require the release of an inmate
34 sentenced to consecutive sentences under the provisions of law applicable to him
35 prior to July 1, 1977, earlier than if he had been sentenced to concurrent sentences.

36 (d) In the case of any prisoner who committed a felony prior to July 1, 1977,
37 who would have been sentenced under Section 1170 if the felony was committed
38 on or after July 1, 1977, the good behavior and participation provisions of Article
39 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply
40 from July 1, 1977, and thereafter.

41 (e) In the case of any inmate who committed a felony prior to July 1, 1977, who
42 would have been sentenced under Section 1168 if the felony was committed on or

1 after July 1, 1977, the Board of Prison Terms shall provide for release from prison
2 as provided for by this code.

3 (f) In the case of any inmate who committed a felony prior to July 1, 1977, the
4 length, conditions, revocation, and other incidents of parole shall be the same as if
5 the prisoner had been sentenced for an offense committed on or after July 1, 1977.

6 (g) Nothing in this chapter shall affect the eligibility for parole under Article 3
7 (commencing with Section 3040) of Chapter 8 of Title 1 of Part 3 of an inmate
8 sentenced pursuant to Section 1168 as operative prior to July 1, 1977, for a period
9 of parole as specified in subdivision (b) of Section 3000.

10 (h) In fixing a term under this section, the Board of Prison Terms shall utilize the
11 terms of imprisonment as provided in Chapter 1139 of the Statutes of 1976 and
12 Chapter 165 of the Statutes of 1977.

13 **Comment.** Section 1170.2 is amended to update obsolete references to former Sections 12022,
14 12022.5, and 12022.7, and to update the term of an enhancement under former Section
15 12022.5(a).

16 ☞ **Note.** Subdivision (a) provides for sentencing of crimes committed before July 1, 1977 (the
17 effective date of the Determinate Sentencing Law). With respect to such crimes, “the Board of
18 Prison Terms shall determine what the length of time of imprisonment would have been under
19 Section 1170 without consideration of good-time credit and utilizing the middle term of the
20 offense bearing the longest term of imprisonment of which the prisoner was convicted increased
21 by any enhancements justified by matters found to be true and which were imposed by the court
22 at the time of sentencing for such felony.” The provision then cites examples of matters justifying
23 enhancement. These include possession of a deadly weapon, use of a firearm, infliction of great
24 bodily injury, and prior convictions. The proposed law updates these references to conform to the
25 new section numbers and to reflect the increased term of enhancement for use of a firearm. The
26 staff believes that these are nonsubstantive changes, but would like to receive input on whether
27 the proposed changes would create any problems.

28 **Penal Code § 1170.89 (repealed). Knowledge that firearm was stolen**

29 Sec. _____. Section 1170.89 of the Penal Code is repealed.

30 ~~1170.89. Where there is an applicable triad for an enhancement related to the~~
31 ~~possession of, being armed with, use of, or furnishing or supplying a firearm, set~~
32 ~~forth in Section 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.55,~~
33 ~~or 12280, the fact that a person knew or had reason to believe that a firearm was~~
34 ~~stolen shall constitute a circumstance in aggravation of the enhancement justifying~~
35 ~~imposition of the upper term on that enhancement.~~

36 **Comment.** Former Section 1170.89 is continued without substantive change in Section 17521.

37 **Penal Code § 12021.5 (repealed). Street gang crimes**

38 Sec. _____. Section 12021.5 of the Penal Code is repealed.

39 ~~12021.5. (a) Every person who carries a loaded or unloaded firearm on his or her~~
40 ~~person, or in a vehicle, during the commission or attempted commission of any~~
41 ~~street gang crimes described in subdivision (a) or (b) of Section 186.22, shall,~~
42 ~~upon conviction of the felony or attempted felony, be punished by an additional~~

1 term of imprisonment in the state prison for one, two, or three years in the court's
2 discretion. The court shall impose the middle term unless there are circumstances
3 in aggravation or mitigation. The court shall state the reasons for its enhancement
4 choice on the record at the time of sentence.

5 (b) Every person who carries a loaded or unloaded firearm together with a
6 detachable shotgun magazine, a detachable pistol magazine, a detachable
7 magazine, or a belt-feeding device on his or her person, or in a vehicle, during the
8 commission or attempted commission of any street gang crimes described in
9 subdivision (a) or (b) of Section 186.22, shall, upon conviction of the felony or
10 attempted felony, be punished by an additional term of imprisonment in the state
11 prison for two, three, or four years in the court's discretion. The court shall impose
12 the middle term unless there are circumstances in aggravation or mitigation. The
13 court shall state the reasons for its enhancement choice on the record at the time of
14 sentence.

15 (c) As used in this section, the following definitions shall apply:

16 (1) "Detachable magazine" means a device that is designed or redesigned to do
17 all of the following:

18 (A) To be attached to a rifle that is designed or redesigned to fire ammunition.

19 (B) To be attached to, and detached from, a rifle that is designed or redesigned to
20 fire ammunition.

21 (C) To feed ammunition continuously and directly into the loading mechanism
22 of a rifle that is designed or redesigned to fire ammunition.

23 (2) "Detachable pistol magazine" means a device that is designed or redesigned
24 to do all of the following:

25 (A) To be attached to a semiautomatic firearm that is not a rifle or shotgun that is
26 designed or redesigned to fire ammunition.

27 (B) To be attached to, and detached from, a firearm that is not a rifle or shotgun
28 that is designed or redesigned to fire ammunition.

29 (C) To feed ammunition continuously and directly into the loading mechanism
30 of a firearm that is not a rifle or a shotgun that is designed or redesigned to fire
31 ammunition.

32 (3) "Detachable shotgun magazine" means a device that is designed or
33 redesigned to do all of the following:

34 (A) To be attached to a firearm that is designed or redesigned to fire a fixed
35 shotgun shell through a smooth or rifled bore.

36 (B) To be attached to, and detached from, a firearm that is designed or
37 redesigned to fire a fixed shotgun shell through a smooth bore.

38 (C) To feed fixed shotgun shells continuously and directly into the loading
39 mechanism of a firearm that is designed or redesigned to fire a fixed shotgun shell.

40 (4) "Belt-feeding device" means a device that is designed or redesigned to
41 continuously feed ammunition into the loading mechanism of a machinegun or a
42 semiautomatic firearm.

1 ~~(5) “Rifle” shall have the same meaning as specified in paragraph (20) of~~
2 ~~subdivision (c) of Section 12020.~~

3 ~~(6) “Shotgun” shall have the same meaning as specified in paragraph (21) of~~
4 ~~subdivision (c) of Section 12020.~~

5 **Comment.** The first sentence of former Section 12021.5(a) is continued without change in
6 Section 17536(a). The second and third sentences are generalized without substantive change in
7 Section 17520. The first sentence of former subdivision (b) is continued without change in
8 Section 17536(b). The second and third sentences are generalized without substantive change in
9 Section 17520. Former subdivision (c) is continued without change in Section 17536(c).

10 **Penal Code § 12022 (repealed). Armed with firearm in commission of felony**

11 Sec. ____ . Section 12022 of the Penal Code is repealed.

12 ~~12022. (a)(1) Except as provided in subdivisions (c) and (d), any person who is~~
13 ~~armed with a firearm in the commission or attempted commission of a felony~~
14 ~~shall, upon conviction of that felony or attempted felony, in addition and~~
15 ~~consecutive to the punishment prescribed for the felony or attempted felony of~~
16 ~~which he or she has been convicted, be punished by an additional term of one year,~~
17 ~~unless the arming is an element of the offense of which he or she was convicted.~~
18 ~~This additional term shall apply to any person who is a principal in the~~
19 ~~commission or attempted commission of a felony if one or more of the principals~~
20 ~~is armed with a firearm, whether or not the person is personally armed with a~~
21 ~~firearm.~~

22 ~~(2) Except as provided in subdivision (c), and notwithstanding subdivision (d), if~~
23 ~~the firearm is an assault weapon, as defined in Section 12276 or Section 12276.1,~~
24 ~~or a machinegun, as defined in Section 12200, the additional term described in this~~
25 ~~subdivision shall be three years whether or not the arming is an element of the~~
26 ~~offense of which he or she was convicted. The additional term provided in this~~
27 ~~paragraph shall apply to any person who is a principal in the commission or~~
28 ~~attempted commission of a felony if one or more of the principals is armed with an~~
29 ~~assault weapon or machinegun whether or not the person is personally armed with~~
30 ~~an assault weapon or machinegun.~~

31 ~~(b)(1) Any person who personally uses a deadly or dangerous weapon in the~~
32 ~~commission or attempted commission of a felony shall, upon conviction of that~~
33 ~~felony or attempted felony, in addition and consecutive to the punishment~~
34 ~~prescribed for the felony or attempted felony of which he or she has been~~
35 ~~convicted, be punished by an additional term of one year, unless use of a deadly or~~
36 ~~dangerous weapon is an element of the offense of which he or she was convicted.~~

37 ~~(2) If the person described in paragraph (1) has been convicted of carjacking or~~
38 ~~attempted carjacking, the additional term shall be one, two, or three years.~~

39 ~~(3) When a person is found to have personally used a deadly or dangerous~~
40 ~~weapon in the commission or attempted commission of a felony as provided in this~~
41 ~~subdivision and the weapon is owned by that person, the court shall order that the~~

1 weapon be deemed a nuisance and disposed of in the manner provided in Section
2 12028.

3 ~~(c) Notwithstanding the enhancement set forth in subdivision (a), any person~~
4 ~~who is personally armed with a firearm in the commission or attempted~~
5 ~~commission of a violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6,~~
6 ~~11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code, shall,~~
7 ~~upon conviction of that offense and in addition and consecutive to the punishment~~
8 ~~prescribed for that offense of which he or she has been convicted, be punished by~~
9 ~~an additional term of imprisonment in the state prison for three, four, or five years~~
10 ~~in the court's discretion. The court shall order the middle term unless there are~~
11 ~~circumstances in aggravation or mitigation. The court shall state the reasons for its~~
12 ~~enhancement choice on the record at the time of the sentence.~~

13 ~~(d) Notwithstanding the enhancement set forth in subdivision (a), any person~~
14 ~~who is not personally armed with a firearm who, knowing that another principal is~~
15 ~~personally armed with a firearm, is a principal in the commission or attempted~~
16 ~~commission of an offense specified in subdivision (c), shall, upon conviction of~~
17 ~~that offense, be punished by an additional term of one, two, or three years in the~~
18 ~~court's discretion. The court shall order the middle term unless there are~~
19 ~~circumstances in aggravation or mitigation. The court shall state the reasons for its~~
20 ~~enhancement choice on the record at the time of the sentence.~~

21 ~~(e) For purposes of imposing an enhancement under Section 1170.1, the~~
22 ~~enhancements under this section shall count as one, single enhancement.~~

23 ~~(f) Notwithstanding any other provision of law, the court may strike the~~
24 ~~additional punishment for the enhancements provided in subdivision (c) or (d) in~~
25 ~~an unusual case where the interests of justice would best be served, if the court~~
26 ~~specifies on the record and enters into the minutes the circumstances indicating~~
27 ~~that the interests of justice would best be served by that disposition.~~

28 **Comment.** Subdivision (a)(1) of former Section 12022 is continued without substantive change
29 in Section 17530. Former subdivision (a)(2) is continued without substantive change in Section
30 17531. Former subdivision (b)(1)-(2) is continued without substantive change in Section 17545.
31 Former subdivision (b)(3) is generalized in Section 17526. The first sentence of former
32 subdivision (c) is continued without change in Section 17537(a). The second and third sentences
33 are generalized without substantive change in Section 17520. The first sentence of former
34 subdivision (d) is continued without change in Section 17537(b). The second and third sentences
35 are generalized without substantive change in Section 17520. Former subdivision (f) is continued
36 without substantive change in Section 17537(c).

37 The introductory clauses of subdivisions (a)(1), (a)(2), (c) and (d) are redundant and are not
38 continued. Subdivision (e) is redundant and is not continued. See *People v. Jones*, 82 Cal. App.
39 4th 485, 98 Cal. Rptr. 2d 329 (2000) (identical provision in Section 12022.5(f) "mirrors" general
40 rule limiting application of weapons enhancement); Section 17525. These are technical,
41 nonsubstantive changes.

42  **Note.** The introductory clauses of subdivisions (a)(1), (a)(2), (c) and (d) appear to be
43 redundant in light of the general rule provided in proposed Section 17525 and are not continued
44 in the proposed law. The Commission believes that this is a nonsubstantive change, but would
45 like to receive comments on this point.

1 Subdivision (e) appears to be redundant with respect to the general rule provided in proposed
2 Section 17525 and has not been continued in the proposed law. See *People v. Jones* 82 Cal. App.
3 4th 485 (2000) (identical provision in Section 12022.5(f) “mirrors” general rule limiting
4 application of weapons enhancement). See also *People v. King*, 5 Cal. 4th 59, 76, 851 P.2d 27, 19
5 Cal. Rptr. 2d 233 (1993) (meaning of Section 12022.5(f) “not readily apparent”). The
6 Commission believes that this is a nonsubstantive change, but would like to receive comments on
7 this point.

8 **Penal Code § 12022.2 (repealed). Possession of armor-piercing ammunition or body vest**

9 Sec. _____. Section 12022.2 of the Penal Code is repealed.

10 ~~12022.2. (a) Any person who, while armed with a firearm in the commission or~~
11 ~~attempted commission of any felony, has in his or her immediate possession~~
12 ~~ammunition for the firearm designed primarily to penetrate metal or armor, shall~~
13 ~~upon conviction of that felony or attempted felony, in addition and consecutive to~~
14 ~~the punishment prescribed for the felony or attempted felony, be punished by an~~
15 ~~additional term of 3, 4, or 10 years. The court shall order the middle term unless~~
16 ~~there are circumstances in aggravation or mitigation. The court shall state the~~
17 ~~reasons for its enhancement choice on the record at the time of the sentence.~~

18 ~~(b) Any person who wears a body vest in the commission or attempted~~
19 ~~commission of a violent offense, as defined in subdivision (b) of Section 12021.1,~~
20 ~~shall, upon conviction of that felony or attempted felony, in addition and~~
21 ~~consecutive to the punishment prescribed for the felony or attempted felony of~~
22 ~~which he or she has been convicted, be punished by an additional term of one, two,~~
23 ~~or five years. The court shall order the middle term unless there are circumstances~~
24 ~~in aggravation or mitigation. The court shall state the reasons for its enhancement~~
25 ~~choice on the record at the time of the sentence.~~

26 ~~(c) As used in this section, “body vest” means any bullet-resistant material~~
27 ~~intended to provide ballistic and trauma protection for the wearer.~~

28 **Comment.** The first sentence of former Section 12022.2(a) is continued without change in
29 Section 17532. The second and third sentences are generalized without substantive change in
30 Section 17520. The first sentence of former subdivision (b) is continued without change in
31 Section 17533(a). The second and third sentences are generalized without substantive change in
32 Section 17520. Former subdivision (c) is continued without change in Section 17533(b).

33 **Penal Code § 12022.3 (repealed). Use or possession of weapons in commission of certain sex**
34 **offenses**

35 Sec. _____. Section 12022.3 of the Penal Code is repealed.

36 ~~12022.3. For each violation or attempted violation of Section 261, 262, 264.1,~~
37 ~~286, 288, 288a, or 289, and in addition to the sentence provided, any person shall~~
38 ~~receive the following:~~

39 ~~(a) A 3-, 4-, or 10-year enhancement if the person uses a firearm or a deadly~~
40 ~~weapon in the commission of the violation.~~

41 ~~(b) A one-, two-, or five-year enhancement if the person is armed with a firearm~~
42 ~~or a deadly weapon. The court shall order the middle term unless there are~~

1 ~~circumstances in aggravation or mitigation. The court shall state the reasons for its~~
2 ~~enhancement choice on the record at the time of the sentence.~~

3 **Comment.** Subdivision (a) of former Section 12022.3 is restated without substantive change in
4 Section 17550. The first sentence of former subdivision (b) is restated without substantive change
5 in Section 17538. The second and third sentences are generalized without substantive change in
6 Section 17520.

7 **Penal Code § 12022.4 (repealed). Furnishing firearm in furtherance of felony**

8 Sec. _____. Section 12022.4 of the Penal Code is repealed.

9 ~~12022.4. Any person who, during the commission or attempted commission of a~~
10 ~~felony, furnishes or offers to furnish a firearm to another for the purpose of aiding,~~
11 ~~abetting, or enabling that person or any other person to commit a felony shall, in~~
12 ~~addition and consecutive to the punishment prescribed by the felony or attempted~~
13 ~~felony of which the person has been convicted, be punished by an additional term~~
14 ~~of one, two, or three years in the state prison. The court shall order the middle term~~
15 ~~unless there are circumstances in aggravation or mitigation. The court shall state~~
16 ~~the reasons for its enhancement choice on the record at the time of the sentence.~~
17 ~~The additional term provided in this section shall not be imposed unless the fact of~~
18 ~~the furnishing is charged in the accusatory pleading and admitted or found to be~~
19 ~~true by the trier of fact.~~

20 **Comment.** The first sentence of former Section 12022.4 is continued without change in Section
21 17534. The second and third sentences are generalized without substantive change in Section
22 17520. The fourth sentence is redundant and is not continued. See Section 1170.1(e). This is a
23 nonsubstantive change.

24  **Note.** The final sentence is redundant with respect to the general rule provided in Section
25 1170.1(e) and is not continued in the proposed law. The Commission believes that this is a
26 nonsubstantive change, but would like to receive comments on this point.

27 **Penal Code § 12022.5 (repealed). Use of firearms in commission of felony**

28 Sec. _____. Section 12022.5 of the Penal Code is repealed.

29 ~~12022.5. (a)(1) Except as provided in subdivisions (b) and (c), any person who~~
30 ~~personally uses a firearm in the commission or attempted commission of a felony~~
31 ~~shall, upon conviction of that felony or attempted felony, in addition and~~
32 ~~consecutive to the punishment prescribed for the felony or attempted felony of~~
33 ~~which he or she has been convicted, be punished by an additional term of~~
34 ~~imprisonment in the state prison for 3, 4, or 10 years, unless use of a firearm is an~~
35 ~~element of the offense of which he or she was convicted.~~

36 ~~(2) If the person described in paragraph (1) has been convicted of carjacking or~~
37 ~~attempted carjacking, the additional term shall be 4, 5, or 10 years. The court shall~~
38 ~~order imposition of the middle term unless there are circumstances in aggravation~~
39 ~~or mitigation. The court shall state its reasons for its enhancement choice on the~~
40 ~~record at the time of sentencing.~~

1 ~~(b)(1) Notwithstanding subdivision (a), any person who is convicted of a felony~~
2 ~~or an attempt to commit a felony, including murder or attempted murder, in which~~
3 ~~that person discharged a firearm at an occupied motor vehicle which caused great~~
4 ~~bodily injury or death to the person of another, shall, upon conviction of that~~
5 ~~felony or attempted felony, in addition and consecutive to the sentence prescribed~~
6 ~~for the felony or attempted felony, be punished by an additional term of~~
7 ~~imprisonment in the state prison for 5, 6, or 10 years.~~

8 ~~(2) Notwithstanding subdivision (a), any person who personally uses an assault~~
9 ~~weapon, as specified in Section 12276 or Section 12276.1, or a machinegun, as~~
10 ~~defined in Section 12200, in the commission or attempted commission of a felony,~~
11 ~~shall, upon conviction of that felony or attempted felony, in addition and~~
12 ~~consecutive to the sentence prescribed for the felony or attempted felony, be~~
13 ~~punished by an additional term of imprisonment in the state prison for 5, 6, or 10~~
14 ~~years.~~

15 ~~(c) Notwithstanding the enhancement set forth in subdivision (a), any person~~
16 ~~who personally uses a firearm in the commission or attempted commission of a~~
17 ~~violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5,~~
18 ~~11379, 11379.5, or 11379.6 of the Health and Safety Code, shall, upon conviction~~
19 ~~of that offense and in addition and consecutive to the punishment prescribed for~~
20 ~~the offense of which he or she has been convicted, be punished by an additional~~
21 ~~term of imprisonment in the state prison for 3, 4, or 10 years in the court's~~
22 ~~discretion. The court shall order the imposition of the middle term unless there are~~
23 ~~circumstances in aggravation or mitigation. The court shall state the reasons for its~~
24 ~~enhancement choice on the record.~~

25 ~~(d) The additional term provided by this section may be imposed in cases of~~
26 ~~assault with a firearm under paragraph (2) of subdivision (a) of Section 245, or~~
27 ~~assault with a deadly weapon which is a firearm under Section 245, or murder if~~
28 ~~the killing was perpetrated by means of shooting a firearm from a motor vehicle,~~
29 ~~intentionally at another person outside of the vehicle with the intent to inflict great~~
30 ~~bodily injury or death.~~

31 ~~(e) When a person is found to have personally used a firearm, an assault weapon,~~
32 ~~or a machinegun in the commission or attempted commission of a felony as~~
33 ~~provided in this section and the firearm, assault weapon, or machinegun is owned~~
34 ~~by that person, the court shall order that the firearm be deemed a nuisance and~~
35 ~~disposed of in the manner provided in Section 12028.~~

36 ~~(f) For purposes of imposing an enhancement under Section 1170.1, the~~
37 ~~enhancements under this section shall count as one, single enhancement.~~

38 **Comment.** Subdivision (a)(1) and the first sentence of subdivision (a)(2) of former Section
39 12022.5 are continued without change in Section 17546(a) and (b), respectively. The second and
40 third sentences of subdivision (a)(2) are generalized without substantive change in Section 17520.
41 Subdivision (b)(1) is continued without change in Section 17551. Subdivision (b)(2) is continued
42 without change in Section 17547. The first sentence of subdivision (c) is continued without
43 substantive change in Section 17548(a). The second and third sentences are continued without

1 substantive change in Section 17520. Subdivision (d) is continued without change in Sections
2 17546(c), 17551(b), 17547(b), and 17548(b). Subdivision (e) is generalized in Section 17526.

3 The introductory clauses of subdivisions (a)(1), (b)(1)-(2), and (c) are redundant and are not
4 continued. Subdivision (f) is redundant and is not continued. See *People v. Jones*, 82 Cal. App.
5 4th 485, 98 Cal. Rptr. 2d 329 (2000) (Section 12022.5(f) “mirrors” general rule limiting
6 application of weapons enhancement); Section 17525. This is a technical, nonsubstantive change.

7  **Note.** The introductory clauses of subdivisions (a)(1), (b)(1)-(2), and (c) appear to be
8 redundant in light of the general rule provided in proposed Section 17525 and are not continued
9 in the proposed law. Subdivision (f) appears to be redundant with respect to the general rule
10 provided in proposed Section 17525 and is not continued in the proposed law. See *People v.*
11 *Jones* 82 Cal. App. 4th 485 (2000) (Section 12022.5(f) “mirrors” general rule limiting application
12 of weapons enhancement). See also *People v. King*, 5 Cal. 4th 59 (1993) (meaning of Section
13 12022.5(f) “not readily apparent”). The Commission believes that these are nonsubstantive
14 changes, but would like to receive comments on this point.

15 **Penal Code § 12022.53 (repealed). Use of weapon in commission of specified violent offenses**

16 Sec. _____. Section 12022.53 of the Penal Code is repealed

17 ~~12022.53. (a) This section applies to the following felonies:~~

- 18 ~~(1) Section 187 (murder).~~
- 19 ~~(2) Section 203 or 205 (mayhem).~~
- 20 ~~(3) Section 207, 209, or 209.5 (kidnapping).~~
- 21 ~~(4) Section 211 (robbery).~~
- 22 ~~(5) Section 215 (carjacking).~~
- 23 ~~(6) Section 220 (assault with intent to commit a specified felony).~~
- 24 ~~(7) Subdivision (d) of Section 245 (assault with a firearm on a peace officer or~~
25 ~~firefighter).~~
- 26 ~~(8) Section 261 or 262 (rape).~~
- 27 ~~(9) Section 264.1 (rape or sexual penetration in concert).~~
- 28 ~~(10) Section 286 (sodomy).~~
- 29 ~~(11) Section 288 or 288.5 (lewd act on a child).~~
- 30 ~~(12) Section 288a (oral copulation).~~
- 31 ~~(13) Section 289 (sexual penetration).~~
- 32 ~~(14) Section 4500 (assault by life prisoner).~~
- 33 ~~(15) Section 4501 (assault by prisoner).~~
- 34 ~~(16) Section 4503 (holding a hostage by prisoner).~~
- 35 ~~(17) Any felony punishable by death or imprisonment in the state prison for life.~~
- 36 ~~(18) Any attempt to commit a crime listed in this subdivision other than an~~
37 ~~assault.~~

38 ~~(b) Notwithstanding any other provision of law, any person who is convicted of~~
39 ~~a felony specified in subdivision (a), and who in the commission of that felony~~
40 ~~personally used a firearm, shall be punished by a term of imprisonment of 10 years~~
41 ~~in the state prison, which shall be imposed in addition and consecutive to the~~
42 ~~punishment prescribed for that felony. The firearm need not be operable or loaded~~
43 ~~for this enhancement to apply.~~

1 ~~(e) Notwithstanding any other provision of law, any person who is convicted of a~~
2 ~~felony specified in subdivision (a), and who in the commission of that felony~~
3 ~~intentionally and personally discharged a firearm, shall be punished by a term of~~
4 ~~imprisonment of 20 years in the state prison, which shall be imposed in addition~~
5 ~~and consecutive to the punishment prescribed for that felony.~~

6 ~~(d) Notwithstanding any other provision of law, any person who is convicted of~~
7 ~~a felony specified in subdivision (a), Section 246, or subdivision (c) or (d) of~~
8 ~~Section 12034, and who in the commission of that felony intentionally and~~
9 ~~personally discharged a firearm and proximately caused great bodily injury, as~~
10 ~~defined in Section 12022.7, or death, to any person other than an accomplice, shall~~
11 ~~be punished by a term of imprisonment of 25 years to life in the state prison,~~
12 ~~which shall be imposed in addition and consecutive to the punishment prescribed~~
13 ~~for that felony.~~

14 ~~(e)(1) The enhancements specified in this section shall apply to any person~~
15 ~~charged as a principal in the commission of an offense that includes an allegation~~
16 ~~pursuant to this section when a violation of both this section and subdivision (b) of~~
17 ~~Section 186.22 are pled and proved.~~

18 ~~(2) An enhancement for participation in a criminal street gang pursuant to~~
19 ~~Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1, shall not be~~
20 ~~imposed on a person in addition to an enhancement imposed pursuant to this~~
21 ~~subdivision, unless the person personally used or personally discharged a firearm~~
22 ~~in the commission of the offense.~~

23 ~~(f) Only one additional term of imprisonment under this section shall be imposed~~
24 ~~per person for each crime. If more than one enhancement per person is found true~~
25 ~~under this section, the court shall impose upon that person the enhancement that~~
26 ~~provides the longest term of imprisonment. An enhancement involving a firearm~~
27 ~~specified in Section 12021.5, 12022, 12022.3, 12022.4, 12022.5, or 12022.55 shall~~
28 ~~not be imposed on a person in addition to an enhancement imposed pursuant to~~
29 ~~this section. An enhancement for great bodily injury as defined in Section 12022.7,~~
30 ~~12022.8, or 12022.9 shall not be imposed on a person in addition to an~~
31 ~~enhancement imposed pursuant to subdivision (d).~~

32 ~~(g) Notwithstanding any other provision of law, probation shall not be granted~~
33 ~~to, nor shall the execution or imposition of sentence be suspended for, any person~~
34 ~~found to come within the provisions of this section.~~

35 ~~(h) Notwithstanding Section 1385 or any other provision of law, the court shall~~
36 ~~not strike an allegation under this section or a finding bringing a person within the~~
37 ~~provisions of this section.~~

38 ~~(i) The total amount of credits awarded pursuant to Article 2.5 (commencing~~
39 ~~with Section 2930) of Chapter 7 of Title 1 of Part 3 or pursuant to Section 4019 or~~
40 ~~any other provision of law shall not exceed 15 percent of the total term of~~
41 ~~imprisonment imposed on a defendant upon whom a sentence is imposed pursuant~~
42 ~~to this section.~~

1 (j) For the penalties in this section to apply, the existence of any fact required
2 under subdivision (b), (c), or (d) shall be alleged in the information or indictment
3 and either admitted by the defendant in open court or found to be true by the trier
4 of fact. When an enhancement specified in this section has been admitted or found
5 to be true, the court shall impose punishment pursuant to this section rather than
6 imposing punishment authorized under any other provision of law, unless another
7 provision of law provides for a greater penalty or a longer term of imprisonment.

8 (k) When a person is found to have used or discharged a firearm in the
9 commission of an offense that includes an allegation pursuant to this section and
10 the firearm is owned by that person, a coparticipant, or a coconspirator, the court
11 shall order that the firearm be deemed a nuisance and disposed of in the manner
12 provided in Section 12028.

13 (l) The enhancements specified in this section shall not apply to the lawful use or
14 discharge of a firearm by a public officer, as provided in Section 196, or by any
15 person in lawful self-defense, lawful defense of another, or lawful defense of
16 property, as provided in Sections 197, 198, and 198.5.

17 **Comment.** Former section 12022.53(a)-(e) is continued without substantive change in Section
18 17549(a)-(e). Former subdivisions (g)-(i) are continued without change in Section 17549(f)-(h)
19 respectively. Subdivision (k) is generalized without substantive change in Section 17526. See
20 Section 17505 (“great bodily injury” defined).

21 Subdivision (f) and the second sentence of subdivision (j) are redundant and are not continued.
22 See Section 17525, 17560. The first sentence of subdivision (j) is redundant and is not continued.
23 See Section 1170.1(e). These are technical, nonsubstantive changes.

24 ☞ **Note.** Subdivision (f) and the second sentence of subdivision (j) appear to be redundant with
25 respect to the general rules provided in proposed Sections 17525 and 17560 and are not continued
26 in the proposed law. The first sentence of subdivision (j) appears to be redundant with respect to
27 the general rule provided in Section 1170.1(e) and is not continued in the proposed law. The
28 Commission believes that these are nonsubstantive changes, but would like to receive comments
29 on this point.

30 **Penal Code § 12022.55 (repealed). Discharge of firearm from motor vehicle**

31 Sec. _____. Section 12022.55 of the Penal Code is repealed.

32 ~~12022.55. Notwithstanding Section 12022.5, any person who, with the intent to~~
33 ~~inflict great bodily injury or death, inflicts great bodily injury, as defined in~~
34 ~~Section 12022.7, or causes the death of a person, other than an occupant of a motor~~
35 ~~vehicle, as a result of discharging a firearm from a motor vehicle in the~~
36 ~~commission of a felony or attempted felony, shall, upon conviction of the felony~~
37 ~~or attempted felony, in addition and consecutive to the punishment prescribed for~~
38 ~~the felony or attempted felony of which he or she has been convicted, be punished~~
39 ~~by an additional term of imprisonment in the state prison for 5, 6, or 10 years.~~

40 **Comment.** Former section 12022.55 is continued without substantive change in Section 17552.
41 The introductory clause of the first sentence is redundant and is not continued. This is a technical,
42 nonsubstantive change. See Section 17525.

1 ☞ **Note.** The introductory clauses of the first sentence appears to be redundant in light of the
2 general rule provided in proposed Section 17560 and is not continued in the proposed law. The
3 Commission believes that this is a nonsubstantive change, but would like to receive comments on
4 this point.

5 **Penal Code § 12022.7 (repealed). Infliction of great bodily injury**

6 Sec. _____. Section 12022.7 of the Penal Code is repealed.

7 ~~12022.7. (a) A person who personally inflicts great bodily injury on any person~~
8 ~~other than an accomplice in the commission or attempted commission of a felony~~
9 ~~shall, in addition and consecutive to the punishment prescribed for the felony or~~
10 ~~attempted felony of which he or she has been convicted, be punished by an~~
11 ~~additional term of three years, unless infliction of great bodily injury is an element~~
12 ~~of the offense of which he or she is convicted.~~

13 ~~(b) A person found to have inflicted great bodily injury pursuant to subdivision~~
14 ~~(a) which causes the victim to become comatose due to brain injury or to suffer~~
15 ~~paralysis, as defined in Section 12022.9, of a permanent nature, shall be punished~~
16 ~~by an additional and consecutive term of five years.~~

17 ~~(c) A person who personally inflicts great bodily injury on a person who is 70~~
18 ~~years of age or older, other than an accomplice, in the commission or attempted~~
19 ~~commission of a felony shall, in addition and consecutive to the punishment~~
20 ~~prescribed for the felony or attempted felony of which he or she has been~~
21 ~~convicted, be punished by an additional term of five years, unless infliction of~~
22 ~~great bodily injury is an element of the offense of which he or she is convicted.~~

23 ~~(d) A person who personally inflicts great bodily injury on a child under the age~~
24 ~~of five years in the commission or attempted commission of a felony shall, in~~
25 ~~addition and consecutive to the punishment prescribed for the felony or attempted~~
26 ~~felony of which he or she has been convicted, be punished by an additional term of~~
27 ~~four, five, or six years, unless infliction of great bodily injury is an element of the~~
28 ~~offense of which he or she is convicted. The court shall order imposition of the~~
29 ~~middle term unless there are circumstances in aggravation or mitigation. The court~~
30 ~~shall state its reasons for its enhancement choice on the record at the time of~~
31 ~~sentencing.~~

32 ~~(e) A person who personally inflicts great bodily injury under circumstances~~
33 ~~involving domestic violence in the commission or attempted commission of a~~
34 ~~felony shall, in addition and consecutive to the punishment prescribed for the~~
35 ~~felony or attempted felony of which he or she has been convicted, be punished by~~
36 ~~an additional term of three, four, or five years. The court shall order imposition of~~
37 ~~the middle term unless there are circumstances in aggravation or mitigation. The~~
38 ~~court shall state its reasons for its enhancement choice on the record at the time of~~
39 ~~sentencing. As used in this section, “domestic violence” has the meaning provided~~
40 ~~in subdivision (b) of Section 13700.~~

41 ~~(f) As used in this section, “great bodily injury” means a significant or~~
42 ~~substantial physical injury.~~

1 ~~(g) This section shall not apply to murder or manslaughter or a violation of~~
2 ~~Section 451 or 452. The additional term provided in this section shall not be~~
3 ~~imposed unless the fact of great bodily injury is charged in the accusatory pleading~~
4 ~~and admitted or found to be true by the trier of fact.~~

5 ~~(h) The court shall impose the additional terms of imprisonment under either~~
6 ~~subdivision (a), (b), (c), or (d), but may not impose more than one of those terms~~
7 ~~for the same offense.~~

8 **Comment.** Subdivision (a) of former Section 12022.7 is continued without change in Section
9 17565(a). Subdivision (b) is restated without substantive change in Section 17566(a). Subdivision
10 (c) is continued without change in Section 17567(a). The first sentence of subdivision (d) is
11 continued without change in Section 17571. The second and third sentences are generalized
12 without substantive change in Section 17520. The first and fourth sentences of subdivision (e) are
13 continued without substantive change in Section 17570(a). The second and third sentences are
14 generalized without substantive change in Section 17520. Subdivision (f) is continued without
15 substantive change in Section 17505. The first sentence of subdivision (g) is continued without
16 substantive change in Sections 17565(b), 17566(b), 17567(b), and 17570(b).

17 The second sentence of subdivision (g) is redundant and is not continued. See Section
18 1170.1(e). Subdivision (h) is redundant and is not continued. See Section 17560. These are
19 technical, nonsubstantive changes.

20  **Note.** The second sentence of subdivision (g) appears to be redundant with respect to the
21 general rule provided in Section 1170.1(e) and is not continued in the proposed law. Subdivision
22 (g) appears to be redundant with respect to the general rule provided in proposed Section 17560
23 and is not continued in the proposed law. The Commission believes that these are nonsubstantive
24 changes, but would like to receive comments on this point.

25 **Penal Code § 12022.75 (repealed). Administering controlled substance against victim's will**

26 Sec. _____. Section 12022.75 of the Penal Code is repealed.

27 ~~12022.75. Any person who, for the purpose of committing a felony, administers~~
28 ~~by injection, inhalation, ingestion, or any other means, any controlled substance~~
29 ~~listed in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety~~
30 ~~Code, against the victim's will by means of force, violence, or fear of immediate~~
31 ~~and unlawful bodily injury to the victim or another person, shall, in addition and~~
32 ~~consecutive to the penalty provided for the felony or attempted felony of which he~~
33 ~~or she has been convicted, be punished by an additional term of three years.~~

34 **Comment.** Former section 12022.75 is continued without change in Section 17577.

35 **Penal Code § 12022.8 (repealed). Infliction of great bodily injury in commission of certain**
36 **sex offenses**

37 Sec. _____. Section 12022.8 of the Penal Code is repealed.

38 ~~12022.8. Any person who inflicts great bodily injury, as defined in Section~~
39 ~~12022.7, on any victim in a violation or attempted violation of paragraph (2), (3),~~
40 ~~or (6) of subdivision (a) of Section 261, paragraph (1) or (4) of subdivision (a) of~~
41 ~~Section 262, Section 264.1, subdivision (b) of Section 288, subdivision (a) of~~
42 ~~Section 289, or sodomy or oral copulation by force, violence, duress, menace, or~~

1 fear of immediate and unlawful bodily injury on the victim or another person as
2 provided in Section 286 or 288a shall receive a five-year enhancement for each
3 such violation in addition to the sentence provided for the felony conviction.

4 **Comment.** Former section 12022.8 is continued without substantive change in Section 17578.

5 **Penal Code § 12022.85 (repealed). Sexual offense with knowledge of AIDS or HIV infection**

6 Sec. _____. Section 12022.85 of the Penal Code is repealed.

7 ~~12022.85. (a) Any person who violates one or more of the offenses listed in~~
8 ~~subdivision (b) with knowledge that he or she has acquired immune deficiency~~
9 ~~syndrome (AIDS) or with the knowledge that he or she carries antibodies of the~~
10 ~~human immunodeficiency virus at the time of the commission of those offenses,~~
11 ~~shall receive a three-year enhancement for each violation in addition to the~~
12 ~~sentence provided under those sections.~~

13 (b) Subdivision (a) applies to the following crimes:

14 (1) Rape in violation of Section 261.

15 (2) Unlawful intercourse with a person under 18 years of age in violation of
16 Section 261.5.

17 (3) Rape of a spouse in violation of Section 262.

18 (4) Sodomy in violation of Section 286.

19 (5) Oral copulation in violation of Section 288a.

20 (c) For purposes of proving the knowledge requirement of this section, the
21 prosecuting attorney may use test results received under subdivision (c) of Section
22 1202.1 or subdivision (g) of Section 1202.6.

23 **Comment.** Former Section 12022.85 is continued without change in Section 17579.

24 **Penal Code § 12022.9 (repealed). Intentional infliction of injury causing termination of**
25 **pregnancy, and discharge of firearms from motor vehicle causing paralysis**

26 Sec. _____. Section 12022.9 of the Penal Code is repealed.

27 ~~12022.9. (a) Any person who, during the commission or attempted commission~~
28 ~~of a felony, knows or reasonably should know that the victim is pregnant, and~~
29 ~~who, with intent to inflict injury, and without the consent of the woman,~~
30 ~~personally inflicts injury upon a pregnant woman that results in the termination of~~
31 ~~the pregnancy shall, in addition and consecutive to the punishment prescribed by~~
32 ~~the felony or attempted felony of which the person has been convicted, be~~
33 ~~punished by an additional term of five years in the state prison. The additional~~
34 ~~term provided in this subdivision shall not be imposed unless the fact of that injury~~
35 ~~is charged in the accusatory pleading and admitted or found to be true by the trier~~
36 ~~of fact.~~

37 Nothing in this subdivision shall be construed as affecting the applicability of
38 subdivision (a) of Section 187 of the Penal Code.

39 (b) (1) Any person convicted of a violation of subdivision (c) of Section 12034
40 shall, in addition and consecutive to the punishment for that violation, be punished

1 by an additional term of four years, if as a result of the defendant personally and
2 willfully and maliciously discharging the firearm, the victim suffers paralysis or
3 paraparesis of a major body part, including, but not limited to, the entire hand or
4 foot.

5 (2) Any person convicted of a violation of Section 246 shall, in addition and
6 consecutive to the punishment for that violation, be punished by an additional term
7 of four years, if as a result of the defendant personally and willfully and
8 maliciously discharging the firearm at an occupied motor vehicle from another
9 motor vehicle, the victim suffers paralysis or paraparesis of a major body part,
10 including, but not limited to, the entire hand or foot.

11 (3) For purposes of this subdivision:

12 (A) "Paralysis" means a major or complete loss of motor function resulting from
13 injury to the nervous system or to a muscular mechanism.

14 (B) "Paraparesis" means a significant weakness of a major body part, including,
15 but not limited to, the entire hand or foot, causing the extremity to be functionally
16 impaired and rendered useless to assist with one of the basic skills in life such as
17 eating or walking.

18 (C) The additional term provided in this section shall not be imposed unless the
19 fact of the injury is charged in an accusatory pleading and admitted or found to be
20 true by the trier of fact.

21 **Comment.** The first sentence of former Section 12022.9(a) is continued without change in
22 Section 17569. The second sentence is redundant and is not continued. See Section 1170.1(e).
23 Subdivision (b) is continued without substantive change in Section 17553.

24 The second sentence of subdivision (a) and subdivision (b)(3)(C) are redundant and are not
25 continued. See Section 1170.1(e). These are technical, nonsubstantive changes.

26 ☞ **Note.** The final sentence of subdivision (a) and subdivision (b)(3)(C) appear to be redundant
27 with respect to the general rule provided in Section 1170.1(e) and are not continued in the
28 proposed law. The Commission believes that these are nonsubstantive changes, but would like to
29 receive comments on this point.

30 **Penal Code § 12022.95 (repealed). Willful harm or injury resulting in death of child**

31 Sec. _____. Section 12022.95 of the Penal Code is repealed.

32 ~~12022.95. Any person convicted of a violation of Section 273a, who under~~
33 ~~circumstances or conditions likely to produce great bodily harm or death, willfully~~
34 ~~causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain~~
35 ~~or injury that results in death, or having the care or custody of any child, under~~
36 ~~circumstances likely to produce great bodily harm or death, willfully causes or~~
37 ~~permits that child to be injured or harmed, and that injury or harm results in death,~~
38 ~~shall receive a four-year enhancement for each violation, in addition to the~~
39 ~~sentence provided for that conviction. Nothing in this paragraph shall be construed~~
40 ~~as affecting the applicability of subdivision (a) of Section 187 or Section 192. This~~
41 ~~section shall not apply unless the allegation is included within an accusatory~~
42 ~~pleading and admitted by the defendant or found to be true by the trier of fact.~~

1 **Comment.** The first two sentences of former Section 12022.95 are continued without change in
2 Section 17572. The third sentence is redundant and is not continued. See Section 1170.1(e). This
3 is a technical, nonsubstantive change.

4  **Note.** The third sentence appears to be redundant with respect to the general rule provided in
5 Section 1170.1(e) and is not continued in the proposed law. The Commission believes that this is
6 a nonsubstantive change, but would like to receive comments on this point.

7 **Penal Code § 12072 (amended). Prohibited transfers, deliveries or sales of firearms**

8 Sec. _____. Section 12072 of the Penal Code is amended to read:

9 12072. (a)(1) No person, corporation, or firm shall knowingly supply, deliver,
10 sell, or give possession or control of a firearm to any person within any of the
11 classes prohibited by Section 12021 or 12021.1.

12 (2) No person, corporation, or dealer shall sell, supply, deliver, or give
13 possession or control of a firearm to any person whom he or she has cause to
14 believe to be within any of the classes prohibited by Section 12021 or 12021.1 of
15 this code or Section 8100 or 8103 of the Welfare and Institutions Code.

16 (3)(A) No person, corporation, or firm shall sell, loan, or transfer a firearm to a
17 minor.

18 (B) Subparagraph (A) shall not apply to or affect those circumstances set forth in
19 subdivision (p) of Section 12078.

20 (4) No person, corporation, or dealer shall sell, loan, or transfer a firearm to any
21 person whom he or she knows or has cause to believe is not the actual purchaser or
22 transferee of the firearm, or to any person who is not the person actually being
23 loaned the firearm, if the person, corporation, or dealer has either of the following:

24 (A) Knowledge that the firearm is to be subsequently loaned, sold, or transferred
25 to avoid the provisions of subdivision (c) or (d).

26 (B) Knowledge that the firearm is to be subsequently loaned, sold, or transferred
27 to avoid the requirements of any exemption to the provisions of subdivision (c) or
28 (d).

29 (5) No person, corporation, or dealer shall acquire a firearm for the purpose of
30 selling, transferring, or loaning the firearm, if the person, corporation, or dealer
31 has either of the following:

32 (A) In the case of a dealer, intent to violate subdivision (b) or (c).

33 (B) In any other case, intent to avoid either of the following:

34 (i) The provisions of subdivision (d).

35 (ii) The requirements of any exemption to the provisions of subdivision (d).

36 (6) The dealer shall comply with the provisions of paragraph (18) of subdivision
37 (b) of Section 12071.

38 (7) The dealer shall comply with the provisions of paragraph (19) of subdivision
39 (b) of Section 12071.

40 (8) No person shall sell or otherwise transfer his or her ownership in a pistol,
41 revolver, or other firearm capable of being concealed upon the person unless the
42 firearm bears either:

1 (A) The name of the manufacturer, the manufacturer's make or model, and a
2 manufacturer's serial number assigned to that firearm.

3 (B) The identification number or mark assigned to the firearm by the Department
4 of Justice pursuant to Section 12092.

5 (9)(A) No person shall make an application to purchase more than one pistol,
6 revolver, or other firearm capable of being concealed upon the person within any
7 30-day period.

8 (B) Subparagraph (A) shall not apply to any of the following:

9 (i) Any law enforcement agency.

10 (ii) Any agency duly authorized to perform law enforcement duties.

11 (iii) Any state or local correctional facility.

12 (iv) Any private security company licensed to do business in California.

13 (v) Any person who is properly identified as a full-time paid peace officer, as
14 defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and
15 who is authorized to, and does carry a firearm during the course and scope of his
16 or her employment as a peace officer.

17 (vi) Any motion picture, television, or video production company or
18 entertainment or theatrical company whose production by its nature involves the
19 use of a firearm.

20 (vii) Any person who may, pursuant to Section 12078, claim an exemption from
21 the waiting period set forth in subdivision (c) of this section.

22 (viii) Any transaction conducted through a licensed dealer pursuant to Section
23 12082.

24 (ix) Any transaction conducted through a law enforcement agency pursuant to
25 Section 12084.

26 (x) Any person who is licensed as a collector pursuant to Chapter 44
27 (commencing with Section 921) of Title 18 of the United States Code and the
28 regulations issued pursuant thereto and who has a current certificate of eligibility
29 issued to him or her by the Department of Justice pursuant to Section 12071.

30 (xi) The exchange of a pistol, revolver, or other firearm capable of being
31 concealed upon the person where the dealer purchased that firearm from the
32 person seeking the exchange within the 30-day period immediately preceding the
33 date of exchange or replacement.

34 (xii) The replacement of a pistol, revolver, or other firearm capable of being
35 concealed upon the person when the person's pistol, revolver, or other firearm
36 capable of being concealed upon the person was lost or stolen, and the person
37 reported that firearm lost or stolen prior to the completion of the application to
38 purchase to any local law enforcement agency of the city, county, or city and
39 county in which he or she resides.

40 (xiii) The return of any pistol, revolver, or other firearm capable of being
41 concealed upon the person to its owner.

42 (b) No person licensed under Section 12071 shall supply, sell, deliver, or give
43 possession or control of a pistol, revolver, or firearm capable of being concealed

1 upon the person to any person under the age of 21 years or any other firearm to a
2 person under the age of 18 years.

3 (c) No dealer, whether or not acting pursuant to Section 12082, shall deliver a
4 firearm to a person, as follows:

5 (1) Within 10 days of the application to purchase, or, after notice by the
6 department pursuant to subdivision (d) of Section 12076, within 10 days of the
7 submission to the department of any correction to the application, or within 10
8 days of the submission to the department of any fee required pursuant to
9 subdivision (e) of Section 12076, whichever is later.

10 (2) Unless unloaded and securely wrapped or unloaded and in a locked
11 container.

12 (3) Unless the purchaser, transferee, or person being loaned the firearm presents
13 clear evidence of his or her identity and age, as defined in Section 12071, to the
14 dealer.

15 (4) Whenever the dealer is notified by the Department of Justice that the person
16 is in a prohibited class described in Section 12021 or 12021.1 of this code or
17 Section 8100 or 8103 of the Welfare and Institutions Code.

18 (5) Commencing April 1, 1994, no pistol, revolver, or other firearm capable of
19 being concealed upon the person shall be delivered unless the purchaser,
20 transferee, or person being loaned the firearm presents to the dealer a basic
21 firearms safety certificate.

22 (6) No pistol, revolver, or other firearm capable of being concealed upon the
23 person shall be delivered whenever the dealer is notified by the Department of
24 Justice that within the preceding 30-day period the purchaser has made another
25 application to purchase a pistol, revolver, or other firearm capable of being
26 concealed upon the person and that the previous application to purchase involved
27 none of the entities specified in subparagraph (B) of paragraph (9) of subdivision
28 (a).

29 (d) Where neither party to the transaction holds a dealer's license issued
30 pursuant to Section 12071, the parties to the transaction shall complete the sale,
31 loan, or transfer of that firearm through either of the following:

32 (1) A licensed dealer pursuant to Section 12082.

33 (2) A law enforcement agency pursuant to Section 12084.

34 (e) No person may commit an act of collusion relating to Article 8 (commencing
35 with Section 12800) of Chapter 6. For purposes of this section and Section 12071,
36 collusion may be proven by any one of the following factors:

37 (1) Answering a test applicant's questions during an objective test relating to
38 basic firearms safety.

39 (2) Knowingly grading the examination falsely.

40 (3) Providing an advance copy of the test to an applicant.

41 (4) Taking or allowing another person to take the basic firearms safety course for
42 one who is the applicant for the basic firearms safety certificate.

1 (5) Allowing another to take the objective test for the applicant, purchaser, or
2 transferee.

3 (6) Allowing others to give unauthorized assistance during the examination.

4 (7) Reference to materials during the examination and cheating by the applicant.

5 (8) Providing originals or photocopies of the objective test, or any version
6 thereof, to any person other than as specified in subdivision (f) of Section 12805.

7 (f)(1) No person who is licensed pursuant to Chapter 44 (commencing with
8 Section 921) of Title 18 of the United States Code shall deliver, sell, or transfer a
9 firearm to a person who is licensed pursuant to Chapter 44 (commencing with
10 Section 921) of Title 18 of the United States Code and whose licensed premises
11 are located in this state unless one of the following conditions is met:

12 (A) The person presents proof of licensure pursuant to Section 12071 to that
13 person.

14 (B) The person presents proof that he or she is exempt from licensure under
15 Section 12071 to that person, in which case the person also shall present proof that
16 the transaction is also exempt from the provisions of subdivision (d).

17 (2)(A) On or after January 1, 1998, within 60 days of bringing a pistol, revolver,
18 or other firearm capable of being concealed upon the person into this state, a
19 personal handgun importer shall do one of the following:

20 (i) Forward by prepaid mail or deliver in person to the Department of Justice, a
21 report prescribed by the department including information concerning that
22 individual and a description of the firearm in question.

23 (ii) Sell or transfer the firearm in accordance with the provisions of subdivision
24 (d) or in accordance with the provisions of an exemption from subdivision (d).

25 (iii) Sell or transfer the firearm to a dealer licensed pursuant to Section 12071.

26 (iv) Sell or transfer the firearm to a sheriff or police department.

27 (B) If the personal handgun importer sells or transfers the pistol, revolver, or
28 other firearm capable of being concealed upon the person pursuant to subdivision
29 (d) of ~~Section 12072~~ and the sale or transfer cannot be completed by the dealer to
30 the purchaser or transferee, and the firearm can be returned to the personal
31 handgun importer, the personal handgun importer shall have complied with the
32 provisions of this paragraph.

33 (C) The provisions of this paragraph are cumulative and shall not be construed
34 as restricting the application of any other law. However, an act or omission
35 punishable in different ways by this section and different provisions of the Penal
36 Code shall not be punished under more than one provision.

37 (D)(i) On and after January 1, 1998, the department shall conduct a public
38 education and notification program regarding this paragraph to ensure a high
39 degree of publicity of the provisions of this paragraph.

40 (ii) As part of the public education and notification program described in this
41 subparagraph, the department shall do all of the following:

42 (I) Work in conjunction with the Department of Motor Vehicles to ensure that
43 any person who is subject to this paragraph is advised of the provisions of this

1 paragraph, and provided with blank copies of the report described in clause (i) of
2 subparagraph (A) at the time that person applies for a California driver's license or
3 registers his or her motor vehicle in accordance with the Vehicle Code.

4 (II) Make the reports referred to in clause (i) of subparagraph (A) available to
5 dealers licensed pursuant to Section 12071.

6 (III) Make the reports referred to in clause (i) of subparagraph (A) available to
7 law enforcement agencies.

8 (IV) Make persons subject to the provisions of this paragraph aware of the fact
9 that reports referred to in clause (i) of subparagraph (A) may be completed at
10 either the licensed premises of dealers licensed pursuant to Section 12071 or at law
11 enforcement agencies, that it is advisable to do so for the sake of accuracy and
12 completeness of the reports, that prior to transporting a pistol, revolver, or other
13 firearm capable of being concealed upon the person to a law enforcement agency
14 in order to comply with subparagraph (A), the person should give prior notice to
15 the law enforcement agency that he or she is doing so, and that in any event, the
16 pistol, revolver, or other firearm capable of being concealed upon the person
17 should be transported unloaded and in a locked container.

18 (iii) Any costs incurred by the department to implement this paragraph shall be
19 absorbed by the department within its existing budget and the fees in the Dealers'
20 Record of Sale Special Account allocated for implementation of this subparagraph
21 pursuant to Section 12076.

22 (3) Where a person who is licensed as a collector pursuant to Chapter 44
23 (commencing with Section 921) of Title 18 of the United States Code and the
24 regulations issued pursuant thereto, whose licensed premises are within this state,
25 acquires a pistol, revolver, or other firearm capable of being concealed upon the
26 person that is a curio or relic, as defined in Section 178.11 of Title 27 of the Code
27 of Federal Regulations, outside of this state, takes actual possession of that firearm
28 outside of this state pursuant to the provisions of subsection (j) of Section 923 of
29 Title 18 of the United States Code, as amended by Public Law 104-208, and
30 transports that firearm into this state, within five days of that licensed collector
31 transporting that firearm into this state, he or she shall report to the department in a
32 format prescribed by the department his or her acquisition of that firearm.

33 (4)(A) It is the intent of the Legislature that a violation of paragraph (2) or (3)
34 shall not constitute a "continuing offense" and the statute of limitations for
35 commencing a prosecution for a violation of paragraph (2) or (3) commences on
36 the date that the applicable grace period specified in paragraph (2) or (3) expires.

37 (B) Paragraphs (2) and (3) shall not apply to a person who reports his or her
38 ownership of a pistol, revolver, or other firearm capable of being concealed upon
39 the person after the applicable grace period specified in paragraph (2) or (3)
40 expires if evidence of that violation arises only as the result of the person
41 submitting the report described in paragraph (2) or (3).

42 (g)(1) Except as provided in paragraph (2), (3), or (5), a violation of this section
43 is a misdemeanor.

1 (2) If any of the following circumstances apply, a violation of this section is
2 punishable by imprisonment in the state prison for two, three, or four years.

3 (A) If the violation is of paragraph (1) of subdivision (a).

4 (B) If the defendant has a prior conviction of violating the provisions, other than
5 paragraph (9) of subdivision (a), of this section or former Section 12100 of this
6 code or Section 8101 of the Welfare and Institutions Code.

7 (C) If the defendant has a prior conviction of violating any offense specified in
8 subdivision (b) of Section 12021.1 or of a violation of Section 12020, 12220, or
9 12520, or of former Section 12560.

10 (D) If the defendant is in a prohibited class described in Section 12021 or
11 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

12 (E) A violation of this section by a person who actively participates in a
13 “criminal street gang” as defined in Section 186.22.

14 (F) A violation of subdivision (b) involving the delivery of any firearm to a
15 person who the dealer knows, or should know, is a minor.

16 (3) If any of the following circumstances apply, a violation of this section shall
17 be punished by imprisonment in a county jail not exceeding one year or in the state
18 prison, or by a fine not to exceed one thousand dollars (\$1,000), or by both the fine
19 and imprisonment.

20 (A) A violation of paragraph (2), (4), or (5), of subdivision (a).

21 (B) A violation of paragraph (3) of subdivision (a) involving the sale, loan, or
22 transfer of a pistol, revolver, or other firearm capable of being concealed upon the
23 person to a minor.

24 (C) A violation of subdivision (b) involving the delivery of a pistol, revolver, or
25 other firearm capable of being concealed upon the person.

26 (D) A violation of paragraph (1), (3), (4), (5), or (6) of subdivision (c) involving
27 a pistol, revolver, or other firearm capable of being concealed upon the person.

28 (E) A violation of subdivision (d) involving a pistol, revolver, or other firearm
29 capable of being concealed upon the person.

30 (F) A violation of subdivision (e).

31 ~~(4) If both of the following circumstances apply, an additional term of~~
32 ~~imprisonment in the state prison for one, two, or three years shall be imposed in~~
33 ~~addition and consecutive to the sentence prescribed.~~

34 ~~(A) A violation of paragraph (2) of subdivision (a) or subdivision (b).~~

35 ~~(B) The firearm transferred in violation of paragraph (2) of subdivision (a) or~~
36 ~~subdivision (b) is used in the subsequent commission of a felony for which a~~
37 ~~conviction is obtained and the prescribed sentence is imposed. The sentence for a~~
38 ~~violation of paragraph (2) of subdivision (a) or subdivision (b) may be subject to~~
39 ~~enhancement under Section 17535.~~

40 (5)(A) A first violation of paragraph (9) of subdivision (a) is an infraction
41 punishable by a fine of fifty dollars (\$50).

42 (B) A second violation of paragraph (9) of subdivision (a) is an infraction
43 punishable by a fine of one hundred dollars (\$100).

1 (C) A third or subsequent violation of paragraph (9) of subdivision (a) is a
2 misdemeanor.

3 (D) For purposes of this paragraph each application to purchase a pistol,
4 revolver, or other firearm capable of being concealed upon the person in violation
5 of paragraph (9) of subdivision (a) shall be deemed a separate offense.

6 **Comment.** Former Section 12072(g)(4) is continued without substantive change in Section
7 17535. A cross-reference to Penal Code Section 17535 has been added.

8 **Penal Code § 12280 (amended). Assault weapons**

9 Sec. _____. Section 12280 of the Penal Code is amended to read:

10 12280. (a)(1) Any person who, within this state, manufactures or causes to be
11 manufactured, distributes, transports, or imports into the state, keeps for sale, or
12 offers or exposes for sale, or who gives or lends any assault weapon, except as
13 provided by this chapter, is guilty of a felony, and upon conviction shall be
14 punished by imprisonment in the state prison for four, six, or eight years.

15 ~~(2) In addition and consecutive to the punishment imposed under paragraph (1),~~
16 ~~any person who transfers, lends, sells, or gives any assault weapon to a minor in~~
17 ~~violation of paragraph (1) shall receive an enhancement of one year. The sentence~~
18 ~~for a violation of paragraph (1) may be subject to enhancement under Section~~
19 ~~17539.~~

20 (b) Except as provided in Section 12288, and in subdivisions (c) and (d), any
21 person who, within this state, possesses any assault weapon, except as provided in
22 this chapter, is guilty of a public offense and upon conviction shall be punished by
23 imprisonment in the state prison, or in a county jail, not exceeding one year.
24 However, if the person presents proof that he or she lawfully possessed the assault
25 weapon prior to June 1, 1989, or prior to the date it was specified as an assault
26 weapon, and has since either registered the firearm and any other lawfully
27 obtained firearm specified by Section 12276 or 12276.5 pursuant to Section 12285
28 or relinquished them pursuant to Section 12288, a first-time violation of this
29 subdivision shall be an infraction punishable by a fine of up to five hundred
30 dollars (\$500), but not less than three hundred fifty dollars (\$350), if the person
31 has otherwise possessed the firearm in compliance with subdivision (c) of Section
32 12285. In these cases, the firearm shall be returned unless the court finds in the
33 interest of public safety, after notice and hearing, that the assault weapon should
34 be destroyed pursuant to Section 12028.

35 (c) A first-time violation of subdivision (b) shall be an infraction punishable by a
36 fine of up to five hundred dollars (\$500), if the person was found in possession of
37 no more than two firearms in compliance with subdivision (c) of Section 12285
38 and the person meets all of the following conditions:

39 (1) The person proves that he or she lawfully possessed the assault weapon prior
40 to the date it was defined as an assault weapon pursuant to Section 12276.1.

41 (2) The person is not found in possession of a firearm specified as an assault
42 weapon pursuant to Section 12276 or Section 12276.5.

1 (3) The person has not previously been convicted of violating this section.

2 (4) The person was found to be in possession of the assault weapons within one
3 year following the end of the one-year registration period established pursuant to
4 subdivision (a) of Section 12285.

5 (5) The person has since registered the firearms and any other lawfully obtained
6 firearms defined by Section 12276.1, pursuant to Section 12285, except as
7 provided for by this section, or relinquished them pursuant to Section 12288.

8 (d) Firearms seized pursuant to subdivision (c) shall be returned unless the court
9 finds in the interest of public safety, after notice and hearing, that the assault
10 weapon should be destroyed pursuant to Section 12028.

11 (e) Notwithstanding Section 654 or any other provision of law, any person who
12 commits another crime while violating this section may receive an additional,
13 consecutive punishment of one year for violating this section in addition and
14 consecutive to the punishment, including enhancements, which is prescribed for
15 the other crime.

16 (f) Subdivisions (a) and (b) shall not apply to the sale to, purchase by, or
17 possession of assault weapons by the Department of Justice, police departments,
18 sheriffs' offices, marshals' offices, the Youth and Adult Corrections Agency, the
19 Department of the California Highway Patrol, district attorneys' offices,
20 Department of Fish and Game, Department of Parks and Recreation, or the
21 military or naval forces of this state or of the United States for use in the discharge
22 of their official duties.

23 (g) Subdivision (b) shall not prohibit the possession or use of assault weapons by
24 sworn peace officer members of those agencies specified in subdivision (f) for law
25 enforcement purposes, whether on or off duty.

26 (h) Subdivisions (a) and (b) shall not prohibit the sale or transfer of assault
27 weapons by an entity specified in subdivision (f) to a person, upon retirement, who
28 retired as a sworn officer from that entity.

29 (i) Subdivision (b) shall not apply to the possession of an assault weapon by a
30 retired peace officer who received that assault weapon pursuant to subdivision (h).

31 (j) Subdivision (b) shall not apply to the possession of an assault weapon, as
32 defined in Section 12276, by any person during the 1990 calendar year, during the
33 90-day period immediately after the date it was specified as an assault weapon
34 pursuant to Section 12276.5, or during the one-year period after the date it was
35 defined as an assault weapon pursuant to Section 12276.1, if all of the following
36 are applicable:

37 (1) The person is eligible under this chapter to register the particular assault
38 weapon.

39 (2) The person lawfully possessed the particular assault weapon described in
40 paragraph (1) prior to June 1, 1989, if the weapon is specified as an assault
41 weapon pursuant to Section 12276, or prior to the date it was specified as an
42 assault weapon pursuant to Section 12276.5, or prior to the date it was defined as
43 an assault weapon pursuant to Section 12276.1.

1 (3) The person is otherwise in compliance with this chapter.

2 (k) Subdivisions (a) and (b) shall not apply to the manufacture by persons who
3 are issued permits pursuant to Section 12287 of assault weapons for sale to the
4 following:

5 (1) Exempt entities listed in subdivision (f).

6 (2) Entities and persons who have been issued permits pursuant to Section
7 12286.

8 (3) Entities outside the state who have, in effect, a federal firearms dealer's
9 license solely for the purpose of distribution to an entity listed in paragraphs (4) to
10 (6), inclusive.

11 (4) Federal military and law enforcement agencies.

12 (5) Law enforcement and military agencies of other states.

13 (6) Foreign governments and agencies approved by the United States State
14 Department.

15 (l) Subdivision (a) shall not apply to a person who is the executor or
16 administrator of an estate that includes an assault weapon registered under Section
17 12285 or that was possessed pursuant to subdivision (g) or (i) which is disposed of
18 as authorized by the probate court, if the disposition is otherwise permitted by this
19 chapter.

20 (m) Subdivision (b) shall not apply to a person who is the executor or
21 administrator of an estate that includes an assault weapon registered under Section
22 12285 or that was possessed pursuant to subdivision (g) or (i), if the assault
23 weapon is possessed at a place set forth in paragraph (1) of subdivision (c) of
24 Section 12285 or as authorized by the probate court.

25 (n) Subdivision (a) shall not apply to:

26 (1) A person who lawfully possesses and has registered an assault weapon
27 pursuant to this chapter who lends that assault weapon to another if all the
28 following apply:

29 (A) The person to whom the assault weapon is lent is 18 years of age or over and
30 is not in a class of persons prohibited from possessing firearms by virtue of
31 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and
32 Institutions Code.

33 (B) The person to whom the assault weapon is lent remains in the presence of
34 the registered possessor of the assault weapon.

35 (C) The assault weapon is possessed at any of the following locations:

36 (i) While on a target range that holds a regulatory or business license for the
37 purpose of practicing shooting at that target range.

38 (ii) While on the premises of a target range of a public or private club or
39 organization organized for the purpose of practicing shooting at targets.

40 (iii) While attending any exhibition, display, or educational project that is about
41 firearms and that is sponsored by, conducted under the auspices of, or approved by
42 a law enforcement agency or a nationally or state recognized entity that fosters
43 proficiency in, or promotes education about, firearms.

1 (2) The return of an assault weapon to the registered possessor which is lent by
2 the same pursuant to paragraph (1).

3 (o) Subdivision (b) shall not apply to the possession of an assault weapon by a
4 person to whom an assault weapon is lent pursuant to subdivision (n).

5 (p) Subdivisions (a) and (b) shall not apply to the possession and importation of
6 an assault weapon into this state by a nonresident if all of the following conditions
7 are met:

8 (1) The person is attending or going directly to or coming directly from an
9 organized competitive match or league competition that involves the use of an
10 assault weapon.

11 (2) The competition or match is conducted on the premises of one of the
12 following:

13 (i) A target range that holds a regulatory or business license for the purpose of
14 practicing shooting at that target range.

15 (ii) A target range of a public or private club or organization that is organized for
16 the purpose of practicing shooting at targets.

17 (3) The match or competition is sponsored by, conducted under the auspices of,
18 or approved by, a law enforcement agency or a nationally or state recognized
19 entity that fosters proficiency in, or promotes education about, firearms.

20 (4) The assault weapon is transported in accordance with Section 12026.1 or
21 12026.2.

22 (5) The person is 18 years of age or over and is not in a class of persons
23 prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this
24 code or Section 8100 or 8103 of the Welfare and Institutions Code.

25 (q) Subdivision (b) shall not apply to any of the following persons:

26 (1) A person acting in accordance with Section 12286.

27 (2) A person who has a permit to possess an assault weapon issued pursuant to
28 Section 12286 when he or she is acting in accordance with Section 12285 or
29 12286.

30 (r) Subdivisions (a) and (b) shall not apply to any of the following persons:

31 (1) A person acting in accordance with Section 12285.

32 (2) A person acting in accordance with Section 12286 or 12290.

33 (s) Subdivision (b) shall not apply to the registered owner of an assault weapon
34 possessing that firearm in accordance with subdivision (c) of Section 12285.

35 (t) Subdivision (a) shall not apply to the importation into this state of an assault
36 weapon by the registered owner of that assault weapon, if it is in accordance with
37 the provisions of subdivision (c) of Section 12285.

38 (u) As used in this chapter, the date a firearm is an assault weapon is the earliest
39 of the following:

40 (1) The effective date of an amendment to Section 12276 that adds the
41 designation of the specified firearm.

42 (2) The effective date of the list promulgated pursuant to Section 12276.5 that
43 adds or changes the designation of the specified firearm.

1 (3) The operative date of Section 12276.1, as specified in subdivision (b) of that
2 section.

3 **Comment.** Former language from Section 12280(a)(2) is continued without substantive change
4 in Section 17539. A cross-reference to Penal Code Section 17539 has been added.

5 VEHICLE CODE

6 **Veh. Code § 23558 (amended). Causing bodily injury or death to more than one victim**
7 **while driving in violation of specified sections**

8 Sec. ____ . Section 23558 of the Vehicle Code is amended to read:

9 ~~23558. Any person who proximately causes bodily injury or death to more than~~
10 ~~one victim in any one instance of driving in violation of Section 23153 of this code~~
11 ~~or in violation of Section 191.5 of, or paragraph (3) of subdivision (e) of Section~~
12 ~~192 of, the Penal Code, shall, upon a felony conviction, and notwithstanding~~
13 ~~subdivision (g) of Section 1170.1 of the Penal Code, receive an enhancement of~~
14 ~~one year in the state prison for each additional injured victim. The enhanced~~
15 ~~sentence provided for in this section shall not be imposed unless the fact of the~~
16 ~~bodily injury to each additional victim is charged in the accusatory pleading and~~
17 ~~admitted or found to be true by the trier of fact. The maximum number of one-year~~
18 ~~enhancements which may be imposed pursuant to this section is three.~~

19 ~~Notwithstanding any other provision of law, the court may strike the~~
20 ~~enhancements provided in this section if it determines that there are circumstances~~
21 ~~in mitigation of the additional punishment and states on the record its reasons for~~
22 ~~striking the additional punishment. The sentence for a violation of Section 23153~~
23 ~~may be subject to enhancement under Section 17585 of the Penal Code.~~

24 **Comment.** The former language from Section 23558 is continued without substantive change
25 in Penal Code Section 17585. The second sentence is redundant and is not continued. See Penal
26 Code § 1170.1(e). This is a technical, nonsubstantive change. A cross-reference to Penal Code
27 Section 17585 has been added.

28 WELFARE AND INSTITUTIONS CODE

29 **Welf. & Inst.Code § 14107 (amended). Fraudulent claims**

30 SEC. ____ . Section 14107 of the Welfare and Institutions Code is amended to
31 read:

32 14107. (a) Any person, including any applicant or provider as defined in Section
33 14043.1, or billing agent, as defined in Section 14040.1, who engages in any of the
34 activities identified in subdivision (b) is punishable by imprisonment as set forth in
35 subdivisions (c), (d), and (e), by a fine not exceeding three times the amount of the
36 fraud or improper reimbursement or value of the scheme or artifice, or by both this
37 fine and imprisonment.

38 (b) The following activities are subject to subdivision (a):

1 (1) A person, with intent to defraud, presents for allowance or payment any false
2 or fraudulent claim for furnishing services or merchandise under this chapter or
3 Chapter 8 (commencing with Section 14200).

4 (2) A person knowingly submits false information for the purpose of obtaining
5 greater compensation than that to which he or she is legally entitled for furnishing
6 services or merchandise under this chapter or Chapter 8 (commencing with
7 Section 14200).

8 (3) A person knowingly submits false information for the purpose of obtaining
9 authorization for furnishing services or merchandise under this chapter or Chapter
10 8 (commencing with Section 14200).

11 (4) A person knowingly and willfully executes, or attempts to execute, a scheme
12 or artifice to do either of the following:

13 (A) Defraud the Medi-Cal program or any other health care program
14 administered by the department or its agents or contractors.

15 (B) Obtain, by means of false or fraudulent pretenses, representations, or
16 promises, any of the money or property owned by, or under the custody or control
17 of, the Medi-Cal program or any other health care program administered by the
18 department or its agents or contractors, in connection with the delivery of or
19 payment for health care benefits, services, goods, supplies, or merchandise.

20 (c) A violation of subdivision (a) is punishable by imprisonment in a county jail,
21 or in the state prison for two, three, or five years.

22 ~~(d) If the execution of a scheme or artifice to defraud as defined in paragraph (4)~~
23 ~~of subdivision (b) is committed under circumstances likely to cause or that do~~
24 ~~cause two or more persons great bodily injury, as defined in Section 12022.7 of~~
25 ~~the Penal Code, or serious bodily injury, as defined in paragraph (4) of subdivision~~
26 ~~(f) of Section 243 of the Penal Code, a term of four years, in addition and~~
27 ~~consecutive to the term of imprisonment imposed in subdivision (c), shall be~~
28 ~~imposed for each person who suffers great bodily injury or serious bodily injury.~~

29 ~~The additional terms provided in this subdivision shall not be imposed unless the~~
30 ~~facts showing the circumstances that were likely to cause or that did cause great~~
31 ~~bodily injury or serious bodily injury to two or more persons are charged in the~~
32 ~~accusatory pleading and admitted or found to be true by the trier of fact. The~~
33 ~~sentence provided in subdivision (c) may be subject to enhancement under Section~~
34 ~~17588 of the Penal Code.~~

35 (e) If the execution of a scheme or artifice to defraud, as defined in paragraph (4)
36 of subdivision (b) results in a death which constitutes a second degree murder, as
37 defined in Section 189 of the Penal Code, the offense shall be punishable, upon
38 conviction, pursuant to subdivision (a) of Section 190 of the Penal Code.

39 (f) Any person, including an applicant or provider as defined in Section 14043.1,
40 or billing agent, as defined in Section 14040.1, who has engaged in any of the
41 activities subject to fine or imprisonment under this section, shall be subject to the
42 asset forfeiture provisions for criminal profiteering.

1 (g) Pursuant to Section 923 of the Penal Code, the Attorney General may
2 convene a grand jury to investigate and indict for any of the activities subject to
3 fine, imprisonment, or asset forfeiture under this section.

4 (h) The enforcement remedies provided under this section are not exclusive and
5 shall not preclude the use of any other criminal or civil remedy. However, an act
6 or omission punishable in different ways by this section and other provisions of
7 law shall not be punished under more than one provision, but the penalty to be
8 imposed shall be determined as set forth in Section 654 of the Penal Code.

9 **Comment.** The former first sentence of Section 14107(d) is continued without substantive
10 change in Penal Code Section 17588. A cross-reference to Penal Code Section 17585 has been
11 added. The former second sentence of subdivision (d) is redundant and is not continued. See
12 Penal Code Section 1170.1(e).

DISPOSITION OF EXISTING LAW

Note. This table shows the disposition of provisions in the Health and Safety Code, Penal Code, Vehicle Code, and the Welfare & Institutions Code that would be repealed or deleted in connection with the proposed reorganization of sentence enhancements relating to weapons and injuries. For more detail, see the Comments in the proposed legislation.

HEALTH AND SAFETY CODE

<i>Health & Safety Code</i>	<i>Penal Code</i>	<i>Health & Safety Code</i>	<i>Penal Code</i>
11379.7(b)	17574	14107(d) 2d sent.	omitted
11739.7(d)	omitted	25189.5(e)	17583
11379.9	17575	25189.7(c)	17584
14107(d) 1st sent.	17588		

PENAL CODE

<i>Former Penal Code</i>	<i>New Section</i>	<i>Former Penal Code</i>	<i>New Section</i>
273.4	17573	12021.5(b) 1st sent.	17536(b)
347(a)(2)	17576	12021.5(b) 2d & 3d sent.	17520
368(b)(2)-(3)	17568(a)-(b)	12021.5(c)	17536(c)
368(j) 2d sent.	omitted	12022(a)(1)	17530
451.1(a)(2)-(3)	17580	12022(a)(2)	17531
451.1(b)	omitted	12022(b)(1)-(2)	17545
452.1(a)(2)-(3)	17581	12022(b)(3)	17526
452.1(b)	omitted	12022(c) 1st sent.	17537(a)
550(f) 2d sent.	omitted	12022(c) 2d and 3d sent.	17520
550(g)-(h)	17586	12022(d) 1st sent.	17537(b)
593a(b)	17582	12022(d) 2d and 3d sent.	17520
600(c)-(d)	17587	12022(e)	omitted
666.7 intro. para.	17523.010	12022(f)	17537(c)
666.7(a)	17523.015	12022.2(a) 1st sent.	17532
666.7(b)	17523.020	12022.2(a) 2d & 3d sent.	17520
666.7(c)	17523.025	12022.2(b) 1st sent.	17533(a)
666.7(d)	17523.035	12022.2(b) 2d & 3d sent.	17520
666.7(e)	17523.040	12022.2(c)	17533(b)
666.7(f)	17523.045	12022.3(a)	17550
666.7(g)	17523.050	12022.3(b) 1st sent.	17538
666.7(h)	17523.055	12022.3(b) 2d & 3d sent.	17520
666.7(i)	17523.060	12022.4 1st sent.	17534
666.7(j)	17523.065	12022.4 2d-3d sent.	17520
666.7(k)	17523.075	12022.4 4th sent.	omitted
666.7(l)	17523.080	12022.5(a)(1)	17546(a)
666.7(m)	17523.085	12022.5(a)(2) 1st sent.	17546(b)
666.7(n)	17523.090	12022.5(a)(2) 2d & 3d sent.	17520
666.7(o)	17523.095	12022.5(b)(1)	17551(a)
666.7(p)	17523.100	12022.5(b)(2)	17547(a)
666.7(q)	17523.105	12022.5(c) 1st sent.	17548(a)
666.7(r)	17523.110	12022.5(c) 2d & 3d sent.	17520
666.7(s)	17523.115	12022.5(d)	17546(c), 17547(b), 17548(b), 17551(b)
666.7(t)	17523.120	12022.5(e)	17526
1170.1(f)	17525	12022.5(f)	omitted
1170.1(g)	17560	12022.53(a)-(e), (g)-(i), (k)-(l)	17549
1170.89	17521	10222.53(f) & (j)	omitted
12021.5(a) 1st sent.	17536(a)	12022.53(k)	17526
12021.5(a) 2d & 3d sent.	17520		

<i>Former Penal Code</i>	<i>New Section</i>	<i>Former Penal Code</i>	<i>New Section</i>
12022.55	17552	12022.7(h)	omitted
12022.7(a)	17565(a)	12022.75	17577
12022.7(b)	17566(a)	12022.8	17578
12022.7(c)	17567(a)	12022.85	17579
12022.7(d) 1st sent.	17571	12022.9(a) 1st & 3d sent.	17569
12022.7(d) 2d & 3d sent.	17520	12022.9(a) 2d sent.	omitted
12022.7(e) 1st & 4th sent.	17570(a)	12022.9(b)(1)-(3)(B)	17553
12022.7(e) 2d & 3d sent.	17520	12022.9(b)(3)(C)	omitted
12022.7(f)	17505	12022.95 1st & 2d sent.	17572
12022.7(g) 1st sent.	17565(b), 17566(b), 17567(b), 17570(b)	12022.95 3d sent.	omitted
12022.7(g) 2d sent.	omitted	12072(g)(4)	17535
		12280(a)(2)	17539

VEHICLE CODE

<i>Veh. Code</i>	<i>Penal Code</i>	<i>Veh. Code</i>	<i>Penal Code</i>
23558 1st & 3d sent.	17585(a)	23558 2d para.	17585(b)
23558 2d sent.	omitted		

WELFARE AND INSTITUTIONS CODE

<i>Welf. & Inst. Code</i>	<i>Penal Code</i>
14107(d) 1st sent.	17588