

**ASSEMBLY BILL**

**No. 1599**

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**Introduced by Assembly Members Kiley, Gallagher, and Patterson**  
**(Coauthors: Assembly Members Choi, Davies, Flora, Lackey,**  
**Nguyen, Seyarto, Smith, and Waldron)**  
(Coauthors: Senators Jones, Melendez, Nielsen, and Wilk)

January 3, 2022

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An act to repeal Chapter 33 (commencing with Section 7599) of Division 7 of Title 1 of the Government Code, to amend Sections 11350 and 11377 of the Health and Safety Code, and to amend Sections 473, 476a, 496, and 666 of, and to repeal Sections 459.5, 490.2, and 1170.18 of, the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1599, as introduced, Kiley. Proposition 47: repeal.

The Safe Neighborhoods and Schools Act, enacted as an initiative statute by Proposition 47, as approved by the electors at the November 4, 2014, statewide general election, made various changes relating to theft and the possession of controlled substances, including by, among other things, generally reducing the penalty for those crimes, including reducing the penalty for possession of concentrated cannabis, establishing a procedure by which individuals convicted of those crimes prior to the passage of the act may petition for resentencing under the act, and creating the crime of shoplifting. The act also requires the Director of Finance to calculate the savings accruing to the state as a result of the implementation of the act and requires the Controller to transfer that sum from the General Fund to the Safe Neighborhoods and Schools Fund, which was created by the act. The act specifies the

manner of distribution of those funds and the purposes for which they may be used.

This bill would repeal the changes and additions made by Proposition 47, except those related to reducing the penalty for possession of concentrated cannabis. This bill would provide that it would become effective only upon approval of the voters, and would provide for the submission of this measure to the voters for approval at the next statewide general election.

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

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

1 SECTION 1. Chapter 33 (commencing with Section 7599) of  
2 Division 7 of Title 1 of the Government Code is repealed.

3 SEC. 2. Section 11350 of the Health and Safety Code is  
4 amended to read:

5 11350. (a) Except as otherwise provided in this division, every  
6 person who possesses (1) any controlled substance specified in  
7 subdivision ~~(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z)~~, or paragraph (1) of subdivision  
8 (f) of Section 11054, specified in paragraph (14), (15), or (20) of  
9 subdivision (d) of Section 11054, or specified in subdivision (b)  
10 or (c) of Section 11055, or specified in subdivision (h) of Section  
11 11056, or (2) any controlled substance classified in Schedule III,  
12 IV, or V which is a narcotic drug, unless upon the written  
13 prescription of a physician, dentist, podiatrist, or veterinarian  
14 licensed to practice in this state, shall be punished by imprisonment  
15 ~~in a county jail for not more than one year, except that such person~~  
16 ~~shall instead be punished pursuant to subdivision (h) of Section~~  
17 ~~1170 of the Penal Code if that person has one or more prior~~  
18 ~~convictions for an offense specified in clause (iv) of subparagraph~~  
19 ~~(C) of paragraph (2) of subdivision (e) of Section 667 of the Penal~~  
20 ~~Code or for an offense requiring registration pursuant to~~  
21 ~~subdivision (e) of Section 290 of the Penal Code.~~

22 (b) *Except as otherwise provided in this division, every person*  
23 *who possesses any controlled substance specified in subdivision*  
24 *(e) of Section 11054 shall be punished by imprisonment in a county*  
25 *jail for not more than one year, or pursuant to subdivision (h) of*  
26 *Section 1170 of the Penal Code.*

27 (b)

1 (c) Except as otherwise provided in this division, whenever a  
2 person who possesses any of the controlled substances specified  
3 in subdivision ~~(a)~~, (a) or (b), the judge may, in addition to any  
4 punishment provided for pursuant to subdivision (a), assess against  
5 that person a fine not to exceed seventy dollars (\$70) with proceeds  
6 of this fine to be used in accordance with Section 1463.23 of the  
7 Penal Code. The court shall, however, take into consideration the  
8 defendant's ability to pay, and no defendant shall be denied  
9 probation because of ~~his or her~~ their inability to pay the fine  
10 permitted under this subdivision.

11 ~~(e)~~

12 (d) Except in unusual cases in which it would not serve the  
13 interest of justice to do so, whenever a court grants probation  
14 pursuant to a felony conviction under this section, in addition to  
15 any other conditions of probation which may be imposed, the  
16 following conditions of probation shall be ordered:

17 (1) For a first offense under this section, a fine of at least one  
18 thousand dollars (\$1,000) or community service.

19 (2) For a second or subsequent offense under this section, a  
20 fine of at least two thousand dollars (\$2,000) or community service.

21 (3) If a defendant does not have the ability to pay the minimum  
22 fines specified in paragraphs (1) and (2), community service shall  
23 be ordered in lieu of the fine.

24 ~~(d)~~

25 (e) It is not unlawful for a person other than the prescription  
26 holder to possess a controlled substance described in subdivision  
27 (a) if both of the following apply:

28 (1) The possession of the controlled substance is at the direction  
29 or with the express authorization of the prescription holder.

30 (2) The sole intent of the possessor is to deliver the prescription  
31 to the prescription holder for its prescribed use or to discard the  
32 substance in a lawful manner.

33 ~~(e)~~

34 (f) This section does not permit the use of a controlled substance  
35 by a person other than the prescription holder or permit the  
36 distribution or sale of a controlled substance that is otherwise  
37 inconsistent with the prescription.

38 SEC. 3. Section 11377 of the Health and Safety Code is  
39 amended to read:

1 11377. (a) Except as authorized by law and as otherwise  
2 provided in subdivision (b) or Section 11375, or in Article 7  
3 (commencing with Section 4211) of Chapter 9 of Division 2 of  
4 the Business and Professions Code, every person who possesses  
5 any controlled substance which is (1) classified in Schedule III,  
6 IV, or V, and which is not a narcotic drug, (2) specified in  
7 subdivision (d) of Section 11054, except paragraphs (13), (14),  
8 (15), and (20) of subdivision (d), (3) specified in paragraph (11)  
9 of subdivision (c) of Section 11056, (4) specified in paragraph (2)  
10 or (3) of subdivision (f) of Section 11054, or (5) specified in  
11 subdivision (d), (e), or (f) of Section 11055, unless upon the  
12 prescription of a physician, dentist, podiatrist, or veterinarian,  
13 licensed to practice in this state, shall be punished by imprisonment  
14 in a county jail for a period of not more than one year, ~~except that~~  
15 ~~such person may instead be punished pursuant to subdivision (h)~~  
16 ~~of Section 1170 of the Penal Code if that person has one or more~~  
17 ~~prior convictions for an offense specified in clause (iv) of~~  
18 ~~subparagraph (C) of paragraph (2) of subdivision (c) of Section~~  
19 ~~667 of the Penal Code or for an offense requiring registration~~  
20 ~~pursuant to subdivision (c) of Section 290 of the or pursuant to~~  
21 ~~subdivision (h) of Section 1170 of the Penal Code.~~

22 (b) (1) *Any person who violates subdivision (a) by unlawfully*  
23 *possessing a controlled substance specified in subdivision (f) of*  
24 *Section 11056, and who has not previously been convicted of a*  
25 *violation involving a controlled substance specified in subdivision*  
26 *(f) of Section 11056, is guilty of a misdemeanor.*

27 (2) *Any person who violates subdivision (a) by unlawfully*  
28 *possessing a controlled substance specified in subdivision (g) of*  
29 *Section 11056 is guilty of a misdemeanor.*

30 (3) *Any person who violates subdivision (a) by unlawfully*  
31 *possessing a controlled substance specified in paragraph (7) or*  
32 *(8) of subdivision (d) of Section 11055 is guilty of a misdemeanor.*

33 (4) *Any person who violates subdivision (a) by unlawfully*  
34 *possessing a controlled substance specified in paragraph (8) of*  
35 *subdivision (f) of Section 11057 is guilty of a misdemeanor.*

36 ~~(b) The~~

37 (c) *In addition to any fine assessed under subdivision (b), the*  
38 *judge may assess a fine not to exceed seventy dollars (\$70) against*  
39 *any person who violates subdivision (a), with the proceeds of this*  
40 *fine to be used in accordance with Section 1463.23 of the Penal*

1 Code. The court shall, however, take into consideration the  
2 defendant’s ability to pay, and no defendant shall be denied  
3 probation because of ~~his or her~~ *their* inability to pay the fine  
4 permitted under this subdivision.

5 (e)

6 (d) It is not unlawful for a person other than the prescription  
7 holder to possess a controlled substance described in subdivision  
8 (a) if both of the following apply:

9 (1) The possession of the controlled substance is at the direction  
10 or with the express authorization of the prescription holder.

11 (2) The sole intent of the possessor is to deliver the prescription  
12 to the prescription holder for its prescribed use or to discard the  
13 substance in a lawful manner.

14 (d)

15 (e) This section does not permit the use of a controlled substance  
16 by a person other than the prescription holder or permit the  
17 distribution or sale of a controlled substance that is otherwise  
18 inconsistent with the prescription.

19 SEC. 4. Section 459.5 of the Penal Code is repealed.

20 ~~459.5. (a) Notwithstanding Section 459, shoplifting is defined~~  
21 ~~as entering a commercial establishment with intent to commit~~  
22 ~~larceny while that establishment is open during regular business~~  
23 ~~hours, where the value of the property that is taken or intended to~~  
24 ~~be taken does not exceed nine hundred fifty dollars (\$950). Any~~  
25 ~~other entry into a commercial establishment with intent to commit~~  
26 ~~larceny is burglary. Shoplifting shall be punished as a~~  
27 ~~misdemeanor, except that a person with one or more prior~~  
28 ~~convictions for an offense specified in clause (iv) of subparagraph~~  
29 ~~(C) of paragraph (2) of subdivision (e) of Section 667 or for an~~  
30 ~~offense requiring registration pursuant to subdivision (c) of Section~~  
31 ~~290 may be punished pursuant to subdivision (h) of Section 1170.~~

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

35 SEC. 5. Section 473 of the Penal Code is amended to read:

36 473. ~~(a)~~ Forgery is punishable by imprisonment in a county  
37 jail for not more than one year, or by imprisonment pursuant to  
38 subdivision (h) of Section 1170.

39 ~~(b) Notwithstanding subdivision (a), any person who is guilty~~  
40 ~~of forgery relating to a check, bond, bank bill, note, cashier’s check,~~

1 traveler's check, or money order, where the value of the check,  
2 bond, bank bill, note, cashier's check, traveler's check, or money  
3 order does not exceed nine hundred fifty dollars (\$950), shall be  
4 punishable by imprisonment in a county jail for not more than one  
5 year, except that such person may instead be punished pursuant  
6 to subdivision (h) of Section 1170 if that person has one or more  
7 prior convictions for an offense specified in clause (iv) of  
8 subparagraph (C) of paragraph (2) of subdivision (e) of Section  
9 667 or for an offense requiring registration pursuant to subdivision  
10 (e) of Section 290. This subdivision shall not be applicable to any  
11 person who is convicted both of forgery and of identity theft, as  
12 defined in Section 530.5.

13 SEC. 6. Section 476a of the Penal Code is amended to read:

14 476a. (a) Any person who, for ~~himself or herself, themselves,~~  
15 as the agent or representative of another, or as an officer of a  
16 corporation, willfully, with intent to defraud, makes or draws or  
17 utters or delivers a check, draft, or order upon a bank or depository,  
18 a person, a firm, or a corporation, for the payment of money,  
19 knowing at the time of that making, drawing, uttering, or delivering  
20 that the maker or drawer or the corporation has not sufficient funds  
21 in, or credit with the bank or depository, person, firm, or  
22 corporation, for the payment of that check, draft, or order and all  
23 other checks, drafts, or orders upon funds then outstanding, in full  
24 upon its presentation, although no express representation is made  
25 with reference thereto, is punishable by imprisonment in a county  
26 jail for not more than one year, or pursuant to subdivision (h) of  
27 Section 1170.

28 (b) However, if the total amount of all checks, drafts, or orders  
29 that the defendant is charged with and convicted of making,  
30 drawing, or uttering does not exceed ~~nine hundred fifty dollars~~  
31 ~~(\$950),~~ *four hundred fifty dollars (\$450)*, the offense is punishable  
32 only by imprisonment in the county jail for not more than one year,  
33 except that such person may instead be punished pursuant to  
34 subdivision (h) of Section 1170 if that person has one or more  
35 prior convictions for an offense specified in clause (iv) of  
36 subparagraph (C) of paragraph (2) of subdivision (e) of Section  
37 667 or for an offense requiring registration pursuant to subdivision  
38 (e) of Section 290. ~~year.~~ This subdivision shall not be applicable  
39 if the defendant has previously been convicted of ~~three or more~~  
40 ~~violations~~ *a violation* of Section 470, 475, or 476, or of this section,

1 or of the crime of petty theft in a case in which defendant's offense  
2 was a violation also of Section 470, 475, or 476 or of this section  
3 or if the defendant has previously been convicted of any offense  
4 under the laws of any other state or of the United States which, if  
5 committed in this state, would have been punishable as a violation  
6 of Section 470, 475 or 476 or of this section or if ~~he~~ *the defendant*  
7 has been so convicted of the crime of petty theft in a case in which,  
8 if defendant's offense had been committed in this state, it would  
9 have been a violation also of Section 470, 475, or 476, or of this  
10 section.

11 (c) Where the check, draft, or order is protested on the ground  
12 of insufficiency of funds or credit, the notice of protest shall be  
13 admissible as proof of presentation, nonpayment, and protest and  
14 shall be presumptive evidence of knowledge of insufficiency of  
15 funds or credit with the bank or depository, person, firm, or  
16 corporation.

17 (d) In any prosecution under this section involving two or more  
18 checks, drafts, or orders, it shall constitute prima facie evidence  
19 of the identity of the drawer of a check, draft, or order if both of  
20 the following occur:

21 (1) When the payee accepts the check, draft, or order from the  
22 drawer, ~~he or she~~ *the payee* obtains from the drawer the following  
23 information: name and residence of the drawer, business or mailing  
24 address, either a valid driver's license number or Department of  
25 Motor Vehicles identification card number, and the drawer's home  
26 or work phone number or place of employment. That information  
27 may be recorded on the check, draft, or order itself or may be  
28 retained on file by the payee and referred to on the check, draft,  
29 or order by identifying number or other similar means.

30 (2) The person receiving the check, draft, or order witnesses  
31 the drawer's signature or endorsement, and, as evidence of that,  
32 initials the check, draft, or order at the time of receipt.

33 (e) The word "credit" as used herein shall be construed to mean  
34 an arrangement or understanding with the bank or depository,  
35 person, firm, or corporation for the payment of a check, draft, or  
36 order.

37 (f) If any of the preceding paragraphs, or parts thereof, shall be  
38 found unconstitutional or invalid, the remainder of this section  
39 shall not thereby be invalidated, but shall remain in full force and  
40 effect.

1 (g) A sheriff's department, police department, or other law  
2 enforcement agency may collect a fee from the defendant for  
3 investigation, collection, and processing of checks referred to their  
4 agency for investigation of alleged violations of this section or  
5 Section 476.

6 (h) The amount of the fee shall not exceed twenty-five dollars  
7 (\$25) for each bad check, in addition to the amount of any bank  
8 charges incurred by the victim as a result of the alleged offense.  
9 If the sheriff's department, police department, or other law  
10 enforcement agency collects a fee for bank charges incurred by  
11 the victim pursuant to this section, that fee shall be paid to the  
12 victim for any bank fees the victim may have been assessed. In no  
13 event shall reimbursement of the bank charge to the victim pursuant  
14 to this section exceed ten dollars (\$10) per check.

15 SEC. 7. Section 490.2 of the Penal Code is repealed.

16 ~~490.2. (a) Notwithstanding Section 487 or any other provision~~  
17 ~~of law defining grand theft, obtaining any property by theft where~~  
18 ~~the value of the money, labor, real or personal property taken does~~  
19 ~~not exceed nine hundred fifty dollars (\$950) shall be considered~~  
20 ~~petty theft and shall be punished as a misdemeanor, except that~~  
21 ~~such person may instead be punished pursuant to subdivision (h)~~  
22 ~~of Section 1170 if that person has one or more prior convictions~~  
23 ~~for an offense specified in clause (iv) of subparagraph (C) of~~  
24 ~~paragraph (2) of subdivision (c) of Section 667 or for an offense~~  
25 ~~requiring registration pursuant to subdivision (c) of Section 290.~~

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

28 ~~(c) This section shall not apply to theft of a firearm.~~

29 SEC. 8. Section 496 of the Penal Code is amended to read:

30 496. (a) Every person who buys or receives any property that  
31 has been stolen or that has been obtained in any manner  
32 constituting theft or extortion, knowing the property to be so stolen  
33 or obtained, or who conceals, sells, withholds, or aids in  
34 concealing, selling, or withholding any property from the owner,  
35 knowing the property to be so stolen or obtained, shall be punished  
36 by imprisonment in a county jail for not more than one year, or  
37 imprisonment pursuant to subdivision (h) of Section 1170.  
38 However, *if the district attorney or the grand jury determines that*  
39 *this action would be in the interests of justice, the district attorney*  
40 *or the grand jury, as the case may be, may if the value of the*

1 property does not exceed nine hundred fifty dollars (\$950), *specify*  
2 *in the accusatory pleading that* the offense shall be a misdemeanor,  
3 punishable only by imprisonment in a county jail not exceeding  
4 one year, ~~if such person has no prior convictions for an offense~~  
5 ~~specified in clause (iv) of subparagraph (C) of paragraph (2) of~~  
6 ~~subdivision (e) of Section 667 or for an offense requiring~~  
7 ~~registration pursuant to subdivision (e) of Section 290.~~ *year.*

8 A principal in the actual theft of the property may be convicted  
9 pursuant to this section. However, no person may be convicted  
10 both pursuant to this section and of the theft of the same property.

11 (b) Every swap meet vendor, as defined in Section 21661 of the  
12 Business and Professions Code, and every person whose principal  
13 business is dealing in, or collecting, merchandise or personal  
14 property, and every agent, employee, or representative of that  
15 person, who buys or receives any property of a value in excess of  
16 nine hundred fifty dollars (\$950) that has been stolen or obtained  
17 in any manner constituting theft or extortion, under circumstances  
18 that should cause the person, agent, employee, or representative  
19 to make reasonable inquiry to ascertain that the person from whom  
20 the property was bought or received had the legal right to sell or  
21 deliver it, without making a reasonable inquiry, shall be punished  
22 by imprisonment in a county jail for not more than one year, or  
23 imprisonment pursuant to subdivision (h) of Section 1170.

24 Every swap meet vendor, as defined in Section 21661 of the  
25 Business and Professions Code, and every person whose principal  
26 business is dealing in, or collecting, merchandise or personal  
27 property, and every agent, employee, or representative of that  
28 person, who buys or receives any property of a value of nine  
29 hundred fifty dollars (\$950) or less that has been stolen or obtained  
30 in any manner constituting theft or extortion, under circumstances  
31 that should cause the person, agent, employee, or representative  
32 to make reasonable inquiry to ascertain that the person from whom  
33 the property was bought or received had the legal right to sell or  
34 deliver it, without making a reasonable inquiry, shall be guilty of  
35 a misdemeanor.

36 (c) Any person who has been injured by a violation of  
37 subdivision (a) or (b) may bring an action for three times the  
38 amount of actual damages, if any, sustained by the plaintiff, costs  
39 of suit, and reasonable attorney's fees.

1 (d) Notwithstanding Section 664, any attempt to commit any  
2 act prohibited by this section, except an offense specified in the  
3 accusatory pleading as a misdemeanor, is punishable by  
4 imprisonment in a county jail for not more than one year, or by  
5 imprisonment pursuant to subdivision (h) of Section 1170.

6 SEC. 9. Section 666 of the Penal Code is amended to read:

7 666. (a) *Notwithstanding Section 490, every person who,*  
8 *having been convicted three or more times of petty theft, grand*  
9 *theft, a conviction pursuant to subdivision (d) or (e) of Section*  
10 *368, auto theft under Section 10851 of the Vehicle Code, burglary,*  
11 *carjacking, robbery, or a felony violation of Section 496 and having*  
12 *served a term therefor in any penal institution or having been*  
13 *imprisoned therein as a condition of probation for that offense,*  
14 *and who is subsequently convicted of petty theft, is punishable by*  
15 *imprisonment in a county jail not exceeding one year, or*  
16 *imprisonment pursuant to subdivision (h) of Section 1170.*

17 (a)

18 (b) Notwithstanding Section 490, any person described in  
19 ~~subdivision (b)~~ *paragraph (1) who, having been convicted of petty*  
20 *theft, grand theft, a conviction pursuant to subdivision (d) or (e)*  
21 *of Section 368, auto theft under Section 10851 of the Vehicle*  
22 *Code, burglary, carjacking, robbery, or a felony violation of Section*  
23 *496, and having served a term of imprisonment therefor in any*  
24 *penal institution or having been imprisoned therein as a condition*  
25 *of probation for that offense, and who is subsequently convicted*  
26 *of petty theft, is punishable by imprisonment in the county jail not*  
27 *exceeding one year, or in the state prison.*

28 ~~(b) Subdivision (a) shall~~

29 (1) *This subdivision shall apply to any person who is required*  
30 *to register pursuant to the Sex Offender Registration Act, or who*  
31 *has a prior ~~violent~~ violent or serious felony conviction, as specified*  
32 *in ~~clause (iv) of subparagraph (C) of paragraph (2) of subdivision~~*  
33 *(e) of Section 667, or has a conviction pursuant to ~~subdivision (d)~~*  
34 *or (e) of Section 368: ~~subdivision (c) of Section 667.5 or~~*  
35 *subdivision (c) of Section 1192.7.*

36 (e)

37 (2) ~~This section~~ *subdivision shall not be construed to preclude*  
38 *prosecution or punishment pursuant to subdivisions (b) to (i),*  
39 *inclusive, of Section 667, or Section 1170.12.*

40 SEC. 10. Section 1170.18 of the Penal Code is repealed.

1 1170.18. ~~(a) A person who, on November 5, 2014, was serving~~  
2 ~~a sentence for a conviction, whether by trial or plea, of a felony~~  
3 ~~or felonies who would have been guilty of a misdemeanor under~~  
4 ~~the act that added this section (“this act”) had this act been in effect~~  
5 ~~at the time of the offense may petition for a recall of sentence~~  
6 ~~before the trial court that entered the judgment of conviction in~~  
7 ~~his or her case to request resentencing in accordance with Sections~~  
8 ~~11350, 11357, or 11377 of the Health and Safety Code, or Section~~  
9 ~~459.5, 473, 476a, 490.2, 496, or 666 of the Penal Code, as those~~  
10 ~~sections have been amended or added by this act.~~

11 ~~(b) Upon receiving a petition under subdivision (a), the court~~  
12 ~~shall determine whether the petitioner satisfies the criteria in~~  
13 ~~subdivision (a). If the petitioner satisfies the criteria in subdivision~~  
14 ~~(a), the petitioner’s felony sentence shall be recalled and the~~  
15 ~~petitioner resentenced to a misdemeanor pursuant to Sections~~  
16 ~~11350, 11357, or 11377 of the Health and Safety Code, or Section~~  
17 ~~459.5, 473, 476a, 490.2, 496, or 666 of the Penal Code, as those~~  
18 ~~sections have been amended or added by this act, unless the court,~~  
19 ~~in its discretion, determines that resentencing the petitioner would~~  
20 ~~pose an unreasonable risk of danger to public safety. In exercising~~  
21 ~~its discretion, the court may consider all of the following:~~

22 ~~(1) The petitioner’s criminal conviction history, including the~~  
23 ~~type of crimes committed, the extent of injury to victims, the length~~  
24 ~~of prior prison commitments, and the remoteness of the crimes.~~

25 ~~(2) The petitioner’s disciplinary record and record of~~  
26 ~~rehabilitation while incarcerated.~~

27 ~~(3) Any other evidence the court, within its discretion,~~  
28 ~~determines to be relevant in deciding whether a new sentence~~  
29 ~~would result in an unreasonable risk of danger to public safety.~~

30 ~~(c) As used throughout this code, “unreasonable risk of danger~~  
31 ~~to public safety” means an unreasonable risk that the petitioner~~  
32 ~~will commit a new violent felony within the meaning of clause~~  
33 ~~(iv) of subparagraph (C) of paragraph (2) of subdivision (c) of~~  
34 ~~Section 667.~~

35 ~~(d) A person who is resentenced pursuant to subdivision (b)~~  
36 ~~shall be given credit for time served and shall be subject to parole~~  
37 ~~for one year following completion of his or her sentence, unless~~  
38 ~~the court, in its discretion, as part of its resentencing order, releases~~  
39 ~~the person from parole. The person is subject to parole supervision~~  
40 ~~by the Department of Corrections and Rehabilitation pursuant to~~

1 Section 3000.08 and the jurisdiction of the court in the county in  
2 which the parolee is released or resides, or in which an alleged  
3 violation of supervision has occurred, for the purpose of hearing  
4 petitions to revoke parole and impose a term of custody.

5 (e) Resentencing pursuant to this section shall not result in the  
6 imposition of a term longer than the original sentence.

7 (f) A person who has completed his or her sentence for a  
8 conviction, whether by trial or plea, of a felony or felonies who  
9 would have been guilty of a misdemeanor under this act had this  
10 act been in effect at the time of the offense, may file an application  
11 before the trial court that entered the judgment of conviction in  
12 his or her case to have the felony conviction or convictions  
13 designated as misdemeanors.

14 (g) If the application satisfies the criteria in subdivision (f), the  
15 court shall designate the felony offense or offenses as a  
16 misdemeanor.

17 (h) Unless the applicant requests a hearing, a hearing is not  
18 necessary to grant or deny an application filed under subdivision  
19 (f).

20 (i) This section does not apply to a person who has one or more  
21 prior convictions for an offense specified in clause (iv) of  
22 subparagraph (C) of paragraph (2) of subdivision (e) of Section  
23 667 or for an offense requiring registration pursuant to subdivision  
24 (e) of Section 290.

25 (j) Except as specified in subdivision (p), a petition or  
26 application under this section shall be filed on or before November  
27 4, 2022, or at a later date upon showing of good cause.

28 (k) A felony conviction that is recalled and resentenced under  
29 subdivision (b) or designated as a misdemeanor under subdivision  
30 (g) shall be considered a misdemeanor for all purposes, except that  
31 resentencing shall not permit that person to own, possess, or have  
32 in his or her custody or control a firearm or prevent his or her  
33 conviction under Chapter 2 (commencing with Section 29800) of  
34 Division 9 of Title 4 of Part 6.

35 (l) If the court that originally sentenced the petitioner is not  
36 available, the presiding judge shall designate another judge to rule  
37 on the petition or application.

38 (m) This section does not diminish or abrogate any rights or  
39 remedies otherwise available to the petitioner or applicant.

1 ~~(n) Resentencing pursuant to this section does not diminish or~~  
2 ~~abrogate the finality of judgments in any case that does not come~~  
3 ~~within the purview of this section.~~

4 ~~(o) A resentencing hearing ordered under this section shall~~  
5 ~~constitute a “post-conviction release proceeding” under paragraph~~  
6 ~~(7) of subdivision (b) of Section 28 of Article I of the California~~  
7 ~~Constitution (Marsy’s Law).~~

8 ~~(p) (1) A person who is committed to a state hospital after being~~  
9 ~~found not guilty by reason of insanity pursuant to Section 1026~~  
10 ~~may petition the court to have his or her maximum term of~~  
11 ~~commitment, as established by Section 1026.5, reduced to the~~  
12 ~~length it would have been had the act that added this section been~~  
13 ~~in effect at the time of the original determination. Both of the~~  
14 ~~following conditions are required for the maximum term of~~  
15 ~~commitment to be reduced:~~

16 ~~(A) The person would have met all of the criteria for a reduction~~  
17 ~~in sentence pursuant to this section had he or she been found guilty.~~

18 ~~(B) The person files the petition for a reduction of the maximum~~  
19 ~~term of commitment before January 1, 2021, or on a later date~~  
20 ~~upon a showing of good cause.~~

21 ~~(2) If a petitioner’s maximum term of confinement is ordered~~  
22 ~~reduced under this subdivision, the new term of confinement must~~  
23 ~~provide opportunity to meet requirements provided in subdivision~~  
24 ~~(b) of Section 1026.5. If a petitioner’s new maximum term of~~  
25 ~~confinement ordered under this section does not provide sufficient~~  
26 ~~time to meet requirements provided in subdivision (b) of Section~~  
27 ~~1026.5, the new maximum term of confinement may be extended,~~  
28 ~~not more than 240 days from the date the petition is granted, in~~  
29 ~~order to meet requirements provided in subdivision (b) of Section~~  
30 ~~1026.5.~~

31 SEC. 11. Sections 1 to 10, inclusive, of this act amend the Safe  
32 Neighborhoods and Schools Act, Proposition 47, an initiative  
33 statute, and shall become effective only when submitted to and  
34 approved by the voters. The Secretary of State shall submit  
35 Sections 1 to 10, inclusive, of this act for approval by the voters  
36 at a statewide election in accordance with Section 9040 of the  
37 Elections Code.

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