

AMENDED IN ASSEMBLY MARCH 24, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 354

Introduced by Assembly Member Michelle Rodriguez

January 30, 2025

~~An act to amend Section 463 of the Penal Code, relating to crimes.~~
An act to add Section 15169 to the Government Code, and to amend Sections 13500, 13510.8, and 13510.9 of, and to add Section 13503.1 to, the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 354, as amended, Michelle Rodriguez. ~~Crimes: looting.~~
Commission on Peace Officer Standards and Training.

(1) Existing law establishes the Commission on Peace Officer Standards and Training (POST) to, among other functions, certify the eligibility of those persons appointed as peace officers throughout the state. Existing law authorizes POST, as specified, to decertify a certified peace officer for engaging in serious misconduct, as specified.

Existing law requires any agency that employs peace officers to, within 10 days, notify POST of specified occurrences including any complaint, charge, or allegation of serious misconduct by a peace officer employed by that agency and the final disposition of any investigation into that complaint, charge, or allegation, regardless of the discipline actually imposed. Existing law provides that each law enforcement agency shall be responsible for the completion of an investigation into any allegation of serious misconduct by an officer, regardless of the officer's employment status. Existing law establishes the California Law Enforcement Telecommunications System (CLETS) within the Department of Justice to facilitate the exchange and

dissemination of information between law enforcement agencies in the state.

This bill would require POST employees whose job duties require access to criminal offender record information, state summary criminal history information, or information obtained from CLETS to undergo a fingerprint-based state and national criminal history background check, as specified.

(2) Existing law requires the Department of Justice to maintain state summary criminal history information, as defined, and to furnish this information to various state and local government officers, officials, and other prescribed entities, if needed in the course of their duties. Existing law makes it a crime for a person authorized by law to receive state summary criminal history information to knowingly furnish that information to a person who is not authorized to receive it.

This bill would authorize the commission and all persons for whom background checks have been completed and their duties require access to inspect or duplicate any information derived from CLETS. The bill would additionally authorize the commission and the Peace Officer Standards Accountability Division to inspect and duplicate any criminal history information, criminal offender record information, or criminal justice information, or any other sensitive, confidential or privileged information if the commission determines that the information is needed in the course of the commission's duties. By expanding the scope of the crime of unlawful disclosure of state summary criminal history information, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law establishes the crime of burglary, which consists of entering specified buildings, places, or vehicles with the intent to commit grand or petit larceny or a felony. Under existing law, a person who commits second-degree burglary, as defined, during and within an affected county in a state of emergency, a local emergency, or under an evacuation order resulting from a natural or manmade disaster is guilty of the crime of looting.~~

~~This bill would make a technical, nonsubstantive change to these provisions.~~

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

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

1 SECTION 1. Section 15169 is added to the Government Code,
2 to read:
3 15169. Notwithstanding any other law, the Commission on
4 Peace Officer Standards and Training, or other persons identified
5 in subdivision (a) of Section 13503.1 of the Penal Code for whom
6 background checks have been completed pursuant to that section
7 and whose duties require access, may inspect or duplicate any
8 information derived from the California Law Enforcement
9 Telecommunications System when the commission deems the
10 information necessary to fulfill its duties.
11 SEC. 2. Section 13500 of the Penal Code is amended to read:
12 13500. (a) There is in the Department of Justice a Commission
13 on Peace Officer Standards and Training, hereafter referred to in
14 this chapter as the commission. The commission consists of 15
15 members appointed by the Governor, after consultation with, and
16 with the advice of, the Attorney General and with the advice and
17 consent of the Senate. Racial, gender, and ethnic diversity shall
18 be considered for all appointments to the commission.
19 (b) The commission shall be composed of the following
20 members:
21 (1) Two members shall be (i) sheriffs or chiefs of police or
22 peace officers nominated by their respective sheriffs or chiefs of
23 police, (ii) peace officers who are deputy sheriffs or city police
24 officers, or (iii) a combination thereof.
25 (2) Three members shall be sheriffs, chiefs of police, or peace
26 officers nominated by their respective sheriffs or chiefs of police.
27 (3) Four members shall be peace officers of the rank of sergeant
28 or below with a minimum of five years' experience as a deputy
29 sheriff, city police officer, marshal, or state-employed peace officer
30 for whom the commission sets standards. Each member shall have
31 demonstrated leadership in the recognized employee organization
32 having the right to represent the member, as set forth in the
33 Meyers-Milias-Brown Act (Chapter 10 (commencing with Section
34 3500)) and Chapter 10.5 (commencing with Section 3525) of
35 Division 4 of Title 1 of the Government Code.

1 (4) One member shall be an elected officer or chief
2 administrative officer of a county in this state.

3 (5) One member shall be an elected officer or chief
4 administrative officer of a city in this state.

5 (6) Two members shall be public members who shall not be
6 peace officers.

7 (7) One member shall be an educator or trainer in the field of
8 criminal justice.

9 (8) One member shall be a peace officer in California of the
10 rank of sergeant or below with a minimum of five years experience
11 as a deputy sheriff, city police officer, marshal, or state-employed
12 peace officer for whom the commission sets standards. This
13 member shall have demonstrated leadership in a California-based
14 law enforcement association that is also a presenter of
15 POST-certified law enforcement training that advances the
16 professionalism of peace officers in California.

17 (c) In addition to the members of the commission appointed
18 pursuant to subdivisions (a) and (b), the President pro Tempore of
19 the Senate and the Speaker of the Assembly shall each appoint a
20 commission member who is not a peace officer. The two appointees
21 shall each have demonstrated expertise in one or more of the
22 following areas:

23 (1) Implicit and explicit bias.

24 (2) Cultural competency.

25 (3) Mental health and policing.

26 (4) Work with vulnerable populations, including, but not limited
27 to, children, elderly persons, people who are pregnant, and people
28 with physical, mental, and developmental disabilities.

29 (d) The Attorney General shall be an ex officio member of the
30 commission.

31 (e) All members of the commission shall serve for a term of
32 three years and until appointment and qualification of their
33 successors, each term to commence on the expiration date of the
34 term of the predecessor.

35 (f) *Notwithstanding any other law, the commission is authorized*
36 *to inspect and duplicate any criminal history information, criminal*
37 *offender record information, or criminal justice information,*
38 *including information contained in or derived from the California*
39 *Law Enforcement Telecommunications System, or any other*
40 *sensitive, confidential or privileged information if the commission*

1 *determines that the information is needed in the course of the*
2 *commission's duties.*

3 *(g) It is the intent of the Legislature in enacting subdivision (f)*
4 *to recognize that the commission is considered a criminal justice*
5 *agency under Section 13101 and may have access to information*
6 *derived from criminal justice databases.*

7 *SEC. 3. Section 13503.1 is added to the Penal Code, to read:*

8 *13503.1. (a) Commission employees, prospective employees,*
9 *appointees, volunteers, contractors, and subcontractors, whose*
10 *job duties require access to criminal offender record information*
11 *as defined in Section 13102, state summary criminal history*
12 *information as defined in Section 11105, or information obtained*
13 *from the California Law Enforcement Telecommunications System,*
14 *shall undergo a fingerprint-based state and national criminal*
15 *history background check.*

16 *(b) The commission shall submit to the Department of Justice*
17 *fingerprint images and related information for individuals specified*
18 *in subdivision (a) who are subject to a state and national criminal*
19 *history background check, pursuant to subdivision (u) of Section*
20 *11105. The Department of Justice shall provide a state or federal*
21 *level response pursuant to subdivision (l) of Section 11105.*

22 *SEC. 4. Section 13510.8 of the Penal Code is amended to read:*

23 *13510.8. (a) (1) The commission shall revoke the certification*
24 *of a certified peace officer if the person is or has become ineligible*
25 *to hold office as a peace officer pursuant to Section 1029 of the*
26 *Government Code.*

27 *(2) The commission may suspend or revoke the certification of*
28 *a peace officer if the person has been terminated for cause from*
29 *employment as a peace officer for, or has, while employed as a*
30 *peace officer, otherwise engaged in, any serious misconduct as*
31 *described in subdivision (b).*

32 *(3) The commission may cancel the certificate or proof of*
33 *eligibility of a peace officer if the commission determines that*
34 *there was fraud or misrepresentation made by an applicant at any*
35 *time during the application process that resulted in the issuance*
36 *of the certification.*

37 *(b) By January 1, 2023, the commission shall adopt by regulation*
38 *a definition of "serious misconduct" that shall serve as the criteria*
39 *to be considered for ineligibility for, or revocation of, certification.*
40 *This definition shall include all of the following:*

1 (1) Dishonesty relating to the reporting, investigation, or
2 prosecution of a crime, or relating to the reporting of, or
3 investigation of misconduct by, a peace officer or custodial officer,
4 including, but not limited to, false statements, intentionally filing
5 false reports, tampering with, falsifying, destroying, or concealing
6 evidence, perjury, and tampering with data recorded by a
7 body-worn camera or other recording device for purposes of
8 concealing misconduct.

9 (2) Abuse of power, including, but not limited to, intimidating
10 witnesses, knowingly obtaining a false confession, and knowingly
11 making a false arrest.

12 (3) Physical abuse, including, but not limited to, the excessive
13 or unreasonable use of force.

14 (4) Sexual assault, as described in subdivision (b) of Section
15 832.7.

16 (5) Demonstrating bias on the basis of race, national origin,
17 religion, gender identity or expression, housing status, sexual
18 orientation, mental or physical disability, or other protected status
19 in violation of law or department policy or inconsistent with a
20 peace officer's obligation to carry out their duties in a fair and
21 unbiased manner. This paragraph does not limit an employee's
22 rights under the First Amendment to the United States Constitution.

23 (6) Acts that violate the law and are sufficiently egregious or
24 repeated as to be inconsistent with a peace officer's obligation to
25 uphold the law or respect the rights of members of the public, as
26 determined by the commission.

27 (7) Participation in a law enforcement gang. For the purpose of
28 this paragraph, a "law enforcement gang" means a group of peace
29 officers within a law enforcement agency who may identify
30 themselves by a name and may be associated with an identifying
31 symbol, including, but not limited to, matching tattoos, and who
32 engage in a pattern of on-duty behavior that intentionally violates
33 the law or fundamental principles of professional policing,
34 including, but not limited to, excluding, harassing, or discriminating
35 against any individual based on a protected category under federal
36 or state antidiscrimination laws, engaging in or promoting conduct
37 that violates the rights of other employees or members of the
38 public, violating agency policy, the persistent practice of unlawful
39 detention or use of excessive force in circumstances where it is
40 known to be unjustified, falsifying police reports, fabricating or

1 destroying evidence, targeting persons for enforcement based
2 solely on protected characteristics of those persons, theft,
3 unauthorized use of alcohol or drugs on duty, unlawful or
4 unauthorized protection of other members from disciplinary
5 actions, and retaliation against other officers who threaten or
6 interfere with the activities of the group.

7 (8) Failure to cooperate with an investigation into potential
8 police misconduct, including an investigation conducted pursuant
9 to this chapter. For purposes of this paragraph, the lawful exercise
10 of rights granted under the United States Constitution, the
11 California Constitution, or any other law shall not be considered
12 a failure to cooperate.

13 (9) Failure to intercede when present and observing another
14 officer using force that is clearly beyond that which is necessary,
15 as determined by an objectively reasonable officer under the
16 circumstances, taking into account the possibility that other officers
17 may have additional information regarding the threat posed by a
18 subject.

19 (c) (1) Beginning no later than January 1, 2023, each law
20 enforcement agency shall be responsible for the completion of
21 investigations of allegations of serious misconduct by a peace
22 officer, regardless of their employment status.

23 (2) The division shall promptly review any grounds for
24 decertification described in subdivision (a) received from an
25 agency. The division shall have the authority to review any agency
26 or other investigative authority file, as well as to conduct additional
27 investigation, if necessary. *The division shall have the authority*
28 *to inspect or duplicate any criminal history information, criminal*
29 *offender record information, or criminal justice information,*
30 *including information contained in or derived from the California*
31 *Law Enforcement Telecommunications System and any other*
32 *information that would otherwise be confidential, privileged, or*
33 *subject to any other restriction on disclosure when that information*
34 *is included as part of an investigation involving a matter within*
35 *the commission's jurisdiction.* The division shall only have
36 authority to review and investigate allegations for purposes of
37 decertification.

38 (3) (A) The board, in their discretion, may request that the
39 division review an investigative file or recommend that the
40 commission direct the division to investigate any potential grounds

1 for decertification of a peace officer. Those requests and
2 recommendations from the board to the division or commission
3 must be based upon a decision by a majority vote.

4 (B) The commission, in its discretion, may direct the division
5 to review an investigative file. The commission, either upon its
6 own motion or in response to a recommendation from the board,
7 may direct the division to investigate any potential grounds for
8 decertification of a peace officer.

9 (C) The division, in its discretion, may investigate without the
10 request of the commission or board any potential grounds for
11 revocation of certification of a peace officer.

12 (4) The division, in carrying out any investigation initiated
13 pursuant to this section or any other duty shall have all of the
14 powers of investigation granted pursuant to Article 2 (commencing
15 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title
16 2 of the Government Code.

17 (5) Notwithstanding any other law, the investigation shall be
18 completed within three years after the receipt of the completed
19 report of the disciplinary or internal affairs investigation from the
20 employing agency pursuant to Section 13510.9, however, no time
21 limit shall apply if a report of the conduct was not made to the
22 commission. An investigation shall be considered completed upon
23 a notice of intent to deny, suspend, or revoke certification issued
24 pursuant to paragraph (1) of subdivision (a) of Section 13510.85.
25 The time limit shall be tolled during the appeal of a termination
26 or other disciplinary action through an administrative or judicial
27 proceeding or during any criminal prosecution of the peace officer.
28 The commission shall consider the peace officer's prior conduct
29 and service record, and any instances of misconduct, including
30 any incidents occurring beyond the time limitation for investigation
31 in evaluating whether to revoke certification for the incident under
32 investigation.

33 (6) An action by an agency or decision resulting from an appeal
34 of an agency's action does not preclude action by the commission
35 to investigate, suspend, or revoke a peace officer's certification
36 pursuant to this section. Whether a particular factual or legal
37 determination in a prior appeal proceeding shall have preclusive
38 effect in proceedings under this chapter shall be governed by the
39 existing law of collateral estoppel.

(d) Upon arrest or indictment of a peace officer for any crime described in Section 1029 of the Government Code, or discharge from any law enforcement agency for grounds set forth in subdivision (a), or separation from employment of a peace officer during a pending investigation into allegations of serious misconduct, the executive director shall order the immediate temporary suspension of any certificate or proof of eligibility held by that peace officer upon the determination by the executive director that the temporary suspension is in the best interest of the health, safety, or welfare of the public. The order of temporary suspension shall be made in writing and shall specify the basis for the executive director's determination. Following the issuance of a temporary suspension order, proceedings of the commission in the exercise of its authority to discipline any peace officer shall be promptly scheduled as provided for in this section. The temporary suspension shall continue in effect until issuance of the final decision on revocation pursuant to this section or until the order is withdrawn by the executive director.

(e) Records of an investigation of any person by the commission shall be retained for 30 years following the date that the investigation is deemed concluded by the commission. The commission may destroy records prior to the expiration of the 30-year retention period if the subject is deceased and no action upon the complaint was taken by the commission beyond the commission's initial intake of the complaint.

(f) Any peace officer may voluntarily surrender their certification permanently. Voluntary permanent surrender of certification pursuant to this subdivision shall have the same effect as revocation. Voluntary permanent surrender is not the same as placement of a valid certification into inactive status during a period in which a person is not actively employed as a peace officer. A permanently surrendered certification cannot be reactivated.

(g) (1) The commission may initiate proceedings to revoke or suspend a peace officer's certification for conduct that occurred before January 1, 2022, only for either of the following:

(A) Serious misconduct pursuant to paragraph (1) or (4) of subdivision (b) or pursuant to paragraph (3) of subdivision (b) for the use of deadly force that results in death or serious bodily injury.

1 (B) If the employing agency makes a final determination
2 regarding its investigation of the misconduct after January 1, 2022.

3 (2) Nothing in this subdivision prevents the commission from
4 considering the peace officer's prior conduct and service record
5 in determining whether suspension or revocation is appropriate
6 for serious misconduct.

7 *SEC. 5. Section 13510.9 of the Penal Code is amended to read:*

8 13510.9. (a) Beginning January 1, 2023, any agency employing
9 peace officers shall report to the commission within 10 days, in a
10 form specified by the commission, any of the following events:

11 (1) The employment, appointment, or termination or separation
12 from employment or appointment, by that agency, of any peace
13 officer. Separation from employment or appointment includes any
14 involuntary termination, resignation, or retirement.

15 (2) Any complaint, charge, or allegation of conduct against a
16 peace officer employed by that agency that could render a peace
17 officer subject to suspension or revocation of certification by the
18 commission pursuant to Section 13510.8.

19 (3) Any finding or recommendation by a civilian oversight
20 entity, including a civilian review board, civilian police
21 commission, police chief, or civilian inspector general, that a peace
22 officer employed by that agency engaged in conduct that could
23 render a peace officer subject to suspension or revocation of
24 certification by the commission pursuant to Section 13510.8.

25 (4) The final disposition of any investigation that determines a
26 peace officer engaged in conduct that could render a peace officer
27 subject to suspension or revocation of certification by the
28 commission pursuant to Section 13510.8, regardless of the
29 discipline imposed.

30 (5) Any civil judgment or court finding against a peace officer
31 based on conduct, or settlement of a civil claim against a peace
32 officer or an agency based on allegations of officer conduct that
33 could render a peace officer subject to suspension or revocation
34 of certification by the commission pursuant to Section 13510.8.

35 (b) By July 1, 2023, any agency employing peace officers shall
36 report to the commission any events described in subdivision (a)
37 that occurred between January 1, 2020, and January 1, 2023.

38 (c) (1) An agency employing peace officers shall make
39 available for inspection or duplication by the commission any
40 investigation into any matter reported pursuant to paragraph (2)

1 of subdivision (a), including any physical or documentary evidence,
2 witness statements, analysis, and conclusions, for no less than two
3 years after reporting of the finding or recommendation reported
4 pursuant to paragraph (3) of subdivision (a), the final disposition
5 of the investigation reported pursuant to paragraph (4) of
6 subdivision (a), or the civil judgment or court finding reported
7 pursuant to paragraph (5) of subdivision (a), as applicable,
8 whichever is latest.

9 *(2) Notwithstanding any other law, the commission shall have*
10 *the authority to inspect or duplicate any criminal history*
11 *information, criminal offender record information, or criminal*
12 *justice information, including information contained in or derived*
13 *from the California Law Enforcement Telecommunications System,*
14 *or any other information that would otherwise be confidential,*
15 *privileged, or subject to any other restriction on disclosure, when*
16 *that information is included as part of an investigation involving*
17 *a matter within the commission's jurisdiction.*

18 (d) (1) In a case of separation from employment or appointment,
19 the employing agency shall execute and maintain an
20 affidavit-of-separation form adopted by the commission describing
21 the reason for separation and shall include whether the separation
22 is part of the resolution or settlement of any criminal, civil, or
23 administrative charge or investigation. The affidavit shall be signed
24 under penalty of perjury and submitted to the commission.

25 (2) A peace officer who has separated from employment or
26 appointment shall be permitted to respond to the
27 affidavit-of-separation form, in writing, to the commission, setting
28 forth their understanding of the facts and reasons for the separation,
29 if different from those provided by the agency.

30 (3) Before employing or appointing any peace officer who has
31 previously been employed or appointed as a peace officer by
32 another agency, the agency shall contact the commission to inquire
33 as to the facts and reasons a peace officer became separated from
34 any previous employing agency. The commission shall, upon
35 request and without prejudice, provide to the subsequent employing
36 agency any information regarding the separation in its possession.

37 (4) Civil liability shall not be imposed on either a law
38 enforcement agency or the commission, or any of the agency's or
39 commission's agents, for providing information pursuant to this
40 section in a good faith belief that the information is accurate.

(e) The commission shall maintain the information reported pursuant to this section, in a form determined by the commission, and in a manner that may be accessed by the subject peace officer, any employing law enforcement agency of that peace officer, any law enforcement agency that is performing a preemployment background investigation of that peace officer, or the commission when necessary for the purposes of decertification. This information may be withheld from the subject peace officer if the commission determines that disclosure pursuant to this section may jeopardize an ongoing investigation, put a victim or witness at risk of any form of harm or injury, or may otherwise create a risk of any form of harm or injury that outweighs the interest in disclosure, until the risk of harm or injury is ended or mitigated so that the interest in disclosure is no longer outweighed by the interest in nondisclosure. Information that the commission releases to an agency pursuant to this section that has been withheld from the subject peace officer shall be kept confidential by the receiving agency.

(f) (1) The commission shall notify the head of the agency that employs the peace officer of all of the following:

(A) The initiation of any investigation of that peace officer by the division, unless that notification would interfere with the investigation.

(B) A finding by the division, following an investigation or review of the investigation, of grounds to take action against the peace officer's certification or application.

(C) A final determination by the commission as to whether action should be taken against a peace officer's certification or application.

(D) An adjudication, after hearing, resulting in action against an officer's certification or application.

(2) If the certificate of a peace officer is temporarily suspended pursuant to subdivision (d) of Section 13510.8, or revoked, the commission shall also notify the district attorney of the county in which the peace officer is or was employed of this fact.

(3) Each notification required by this subdivision shall include the name of the peace officer and a summary of the basis for the action requiring notification.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because

1 *the only costs that may be incurred by a local agency or school*
2 *district will be incurred because this act creates a new crime or*
3 *infraction, eliminates a crime or infraction, or changes the penalty*
4 *for a crime or infraction, within the meaning of Section 17556 of*
5 *the Government Code, or changes the definition of a crime within*
6 *the meaning of Section 6 of Article XIII B of the California*
7 *Constitution.*

8 ~~SECTION 1. Section 463 of the Penal Code is amended to~~
9 ~~read:~~

10 ~~463. (a) Every person who violates Section 459, punishable~~
11 ~~as a second-degree burglary pursuant to subdivision (b) of Section~~
12 ~~461, during and within an affected county in a “state of emergency”~~
13 ~~or a “local emergency,” or under an “evacuation order,” resulting~~
14 ~~from an earthquake, fire, flood, riot, or other natural or manmade~~
15 ~~disaster shall be guilty of the crime of looting, punishable by~~
16 ~~imprisonment in a county jail for one year or pursuant to~~
17 ~~subdivision (h) of Section 1170. A person convicted under this~~
18 ~~subdivision who is eligible for probation and who is granted~~
19 ~~probation shall, as a condition thereof, be confined in a county jail~~
20 ~~for at least 180 days, except that the court may, in the case where~~
21 ~~the interest of justice would best be served, reduce or eliminate~~
22 ~~that mandatory jail sentence, if the court specifies on the record~~
23 ~~and enters into the minutes the circumstances indicating that the~~
24 ~~interest of justice would best be served by that disposition. In~~
25 ~~addition to whatever custody is ordered, the court, in its discretion,~~
26 ~~may require any person granted probation following conviction~~
27 ~~under this subdivision to serve up to 240 hours of community~~
28 ~~service in any program deemed appropriate by the court, including~~
29 ~~any program created to rebuild the community.~~

30 ~~For purposes of this subdivision, the fact that the structure~~
31 ~~entered has been damaged by the earthquake, fire, flood, or other~~
32 ~~natural or manmade disaster shall not, in and of itself, preclude~~
33 ~~conviction.~~

34 ~~(b) Every person who commits the crime of grand theft, as~~
35 ~~defined in Section 487 or subdivision (a) of Section 487a, except~~
36 ~~grand theft of a firearm, during and within an affected county in~~
37 ~~a “state of emergency” or a “local emergency,” or under an~~
38 ~~“evacuation order,” resulting from an earthquake, fire, flood, riot,~~
39 ~~or other natural or unnatural disaster shall be guilty of the crime~~
40 ~~of looting, punishable by imprisonment in a county jail for one~~

1 year or pursuant to subdivision (h) of Section 1170. Every person
2 who commits the crime of grand theft of a firearm, as defined in
3 Section 487, during and within an affected county in a “state of
4 emergency” or a “local emergency” resulting from an earthquake,
5 fire, flood, riot, or other natural or unnatural disaster shall be guilty
6 of the crime of looting, punishable by imprisonment in the state
7 prison, as set forth in subdivision (a) of Section 489. Any person
8 convicted under this subdivision who is eligible for probation and
9 who is granted probation shall, as a condition thereof, be confined
10 in a county jail for at least 180 days, except that the court may, in
11 the case where the interest of justice would best be served, reduce
12 or eliminate that mandatory jail sentence, if the court specifies on
13 the record and enters into the minutes the circumstances indicating
14 that the interest of justice would best be served by that disposition.
15 In addition to whatever custody is ordered, the court, in its
16 discretion, may require any person granted probation following
17 conviction under this subdivision to serve up to 160 hours of
18 community service in any program deemed appropriate by the
19 court, including any program created to rebuild the community.

20 (e) Every person who commits the crime of petty theft, as
21 defined in Section 488, during and within an affected county in a
22 “state of emergency” or a “local emergency,” or under an
23 “evacuation order,” resulting from an earthquake, fire, flood, riot,
24 or other natural or manmade disaster shall be guilty of a
25 misdemeanor, punishable by imprisonment in a county jail for six
26 months. Any person convicted under this subdivision who is
27 eligible for probation and who is granted probation shall, as a
28 condition thereof, be confined in a county jail for at least 90 days,
29 except that the court may, in the case where the interest of justice
30 would best be served, reduce or eliminate that mandatory minimum
31 jail sentence, if the court specifies on the record and enters into
32 the minutes the circumstances indicating that the interest of justice
33 would best be served by that disposition. In addition to whatever
34 custody is ordered, the court, in its discretion, may require any
35 person granted probation following conviction under this
36 subdivision to serve up to 80 hours of community service in any
37 program deemed appropriate by the court, including any program
38 created to rebuild the community.

39 (d) (1) For purposes of this section, “state of emergency” means
40 conditions that, by reason of their magnitude, are, or are likely to

1 be, beyond the control of the services, personnel, equipment, and
2 facilities of any single county, city and county, or city and require
3 the combined forces of a mutual aid region or regions to combat.

4 (2) For purposes of this section, “local emergency” means
5 conditions that, by reason of their magnitude, are, or are likely to
6 be, beyond the control of the services, personnel, equipment, and
7 facilities of any single county, city and county, or city and require
8 the combined forces of a mutual aid region or regions to combat.

9 (3) For purposes of this section, a “state of emergency” shall
10 exist from the time of the proclamation of the condition of the
11 emergency until terminated pursuant to Section 8629 of the
12 Government Code. For purposes of this section only, a “local
13 emergency” shall exist from the time of the proclamation of the
14 condition of the emergency by the local governing body until
15 terminated pursuant to Section 8630 of the Government Code.

16 (4) For purposes of this section, “evacuation order” means an
17 order from the Governor, or a county sheriff, chief of police, or
18 fire marshal, under which persons subject to the order are required
19 to relocate outside of the geographic area covered by the order due
20 to an imminent danger resulting from an earthquake, fire, flood,
21 riot, or other natural or manmade disaster.

22 (5) Consensual entry into a commercial structure with the intent
23 to commit a violation of Section 470, 476, 476a, 484f, or 484g
24 shall not be charged as a violation under this section.