

AMENDED IN SENATE APRIL 9, 2018

SENATE BILL

No. 1207

Introduced by Senator De León

February 15, 2018

An act to amend ~~Section 352.1 of the Evidence Code, relating to evidence. Sections 100000, 100002, 100004, 100008, 100012, 100014, 100016, 100032, 100034, 100046, and 100049 of the Government Code, to amend Section 1088.9 of the Unemployment Insurance Code, and to amend Section 12302.2 of the Welfare and Institutions Code, relating to retirement savings plans.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1207, as amended, De León. ~~Criminal proceedings; excluded evidence. CalSavers Retirement Savings Program.~~

Existing law, known as the California Secure Choice Retirement Savings Trust Act, establishes the California Secure Choice Retirement Savings Program, administered by the California Secure Choice Retirement Savings Investment Board. The program requires specified eligible employers, as defined, to offer a payroll deposit retirement savings arrangement and requires eligible employees, as defined, who do not opt out of the program, to contribute a portion of their salary or wages to a retirement savings account in the program, as specified.

This bill would change the name of the California Secure Choice Retirement Savings Program to the CalSavers Retirement Savings Program and would make conforming changes.

~~Existing law provides that, in specified criminal proceedings, the district attorney may move to exclude from evidence the victim's current address and telephone number.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

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

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

1 *SECTION 1. Section 100000 of the Government Code is*
2 *amended to read:*
3 100000. For purposes of this title, the following definitions
4 shall apply:
5 (a) “Board” means the California Secure Choice Retirement
6 Savings Investment Board.
7 (b) ~~“California Secure Choice~~ “CalSavers Retirement Savings
8 Program” or “program” means a retirement savings program
9 offered by the California Secure Choice Retirement Savings Trust.
10 (c) (1) “Eligible employee” means a person who is employed
11 by an eligible employer.
12 (2) “Eligible employee” does not include:
13 (A) Any employee covered under the federal Railway Labor
14 Act (45 U.S.C. Sec. 151), or any employee engaged in interstate
15 commerce so as not to be subject to the legislative powers of the
16 state, except insofar as application of this title is authorized under
17 the United States Constitution or laws of the United States.
18 (B) Any employee on whose behalf an employer makes
19 contributions to a Taft-Hartley pension trust fund.
20 (d) (1) “Eligible employer” means a person or entity engaged
21 in a business, industry, profession, trade, or other enterprise in the
22 state, whether for profit or not for profit, excluding the federal
23 government, the state, any county, any municipal corporation, or
24 any of the state’s units or instrumentalities, that has five or more
25 employees and that satisfies the requirements to establish or
26 participate in a payroll deposit retirement savings arrangement.
27 (2) Upon a positive determination pursuant to subdivision (a)
28 of Section 100046, eligible employer means an employer of a
29 provider of in-home supportive services, as regulated by Article
30 7 (commencing with Section 12300) of Chapter 3 of Part 3 of
31 Division 9 of the Welfare and Institutions Code.

(3) “Eligible employer” does not include an employer that provides a retirement savings program as described in subdivision (g) of Section 100032.

(e) “IRA” means an individual retirement account or individual retirement annuity under Section 408(a), 408(b), or 408A of Title 26 of the United States Code.

(f) “myRA” means the federal myRA retirement savings program, including any successor program, offered by the United States Department of the Treasury or an IRA offered under that program.

(g) “Participating employer” means an eligible employer that provides a payroll deposit retirement savings arrangement provided for by this title for eligible employees.

(h) “Payroll deposit retirement savings arrangement” means an arrangement by which an employer allows employees to remit payroll deduction contributions to a retirement savings program, which may include an IRA, and in the case of a payroll deduction IRA arrangement, to remit specifically to an IRA.

(i) “Trust” means the California Secure Choice Retirement Savings Trust established by this title.

(j) “Vendor” means a registered investment company or admitted life insurance company qualified to do business in California that provides retirement investment products. “Vendor” also includes a company that is registered to do business in California that provides payroll services or recordkeeping services and offers retirement plans or payroll deduction IRA arrangements using products of regulated investment companies and insurance companies qualified to do business in California. “Vendor” does not include individual registered representatives, brokers, financial planners, or agents.

SEC. 2. Section 100002 of the Government Code is amended to read:

100002. (a) (1) There is hereby created within state government the California Secure Choice Retirement Savings Investment Board, which shall consist of nine members, with the Treasurer serving as chair, as follows:

(A) The Treasurer.

(B) The Director of Finance, or his or her designee.

(C) The Controller.

1 (D) An individual with retirement savings and investment
2 expertise appointed by the Senate Committee on Rules.

3 (E) An employee representative appointed by the Speaker of
4 the Assembly.

5 (F) A small business representative appointed by the Governor.

6 (G) A public member appointed by the Governor.

7 (H) Two additional members appointed by the Governor.

8 (2) Members of the board appointed by the Governor, the Senate
9 Committee on Rules, and the Speaker of the Assembly shall serve
10 at the pleasure of the appointing authority.

11 (b) All members of the board shall serve without compensation.
12 Members of the board shall be reimbursed for necessary travel
13 expenses incurred in connection with their board duties.

14 (c) A board member, program administrator, and other staff of
15 the board shall not do any of the following:

16 (1) Directly or indirectly have any interest in the making of any
17 investment made for the program, or in the gains or profits accruing
18 from any investment made for the program.

19 (2) Borrow any funds or deposits of the trust, or use those funds
20 or deposits in any manner, for himself or herself or as an agent or
21 partner of others.

22 (3) Become an endorser, surety, or obligor on investments by
23 the board.

24 (d) The board and the program administrator and staff, including
25 contracted administrators and consultants, shall discharge their
26 duties as fiduciaries with respect to the trust solely in the interest
27 of the program participants as follows:

28 (1) For the exclusive purposes of providing benefits to program
29 participants and defraying reasonable expenses of administering
30 the program.

31 (2) By investing with the care, skill, prudence, and diligence
32 under the circumstances then prevailing that a prudent person
33 acting in a like capacity and familiar with those matters would use
34 in the conduct of an enterprise of a like character and with like
35 aims.

36 (e) The board, subject to its authority and fiduciary duty, shall
37 design and implement the ~~California Secure Choice~~ *CalSavers*
38 Retirement Savings Program.

39 (1) (A) For up to three years following the initial
40 implementation of the program, the board shall establish managed

1 accounts invested in United States Treasuries, myRAs, or similar
2 investments.

3 (B) The board shall have the authority to provide for investment
4 in myRAs, provided that, in accordance with the myRA provisions,
5 myRA contributions and investment returns shall only be used for
6 myRA investments and to make distributions to, or for the benefit
7 of, participants and shall not be used to pay any costs of
8 administration.

9 (2) (A) During period described in paragraph (1), the board
10 shall develop and implement an investment policy that defines the
11 program's investment objectives and shall establish policies and
12 procedures enabling investment objectives to be met in a prudent
13 manner. The board shall seek to minimize participant fees and
14 strive to implement program features that provide maximum
15 possible income replacement balanced with appropriate risk in an
16 IRA-based environment. The policy shall describe the investment
17 options available to holders of individual savings accounts
18 established as part of the program. Investment options may
19 encompass a range of risk and return opportunities and allow for
20 a rate of return commensurate with an appropriate level of risk to
21 meet the investment objectives stated in the policy.

22 (B) The board may also develop investment option
23 recommendations that address risk-sharing and smoothing of
24 market losses and gains. Investment option recommendations may
25 include, but are not limited to, the creation of a reserve fund or the
26 establishment of customized investment products. Implementation
27 of an investment option recommendation pursuant to this
28 subparagraph shall be contingent upon subsequent approval by the
29 Legislature.

30 (3) After the period described in paragraph (1) has expired, the
31 board shall annually prepare and adopt a written statement of
32 investment policy that includes a risk management and oversight
33 program. The board shall consider the statement of investment
34 policy and any changes in the investment policy at a public hearing.

35 (4) The risk management and oversight program shall include
36 an effective risk management system to monitor the risk levels of
37 the ~~California Secure Choice~~ *CalSavers* Retirement Savings
38 Program investment portfolio and ensure that the risks taken are
39 prudent and properly managed. The program shall be managed to
40 provide an integrated process for overall risk management on both

1 a consolidated and disaggregated basis, and to monitor investment
2 returns as well as risk to determine if the risks taken are adequately
3 compensated compared to applicable performance benchmarks
4 and standards.

5 (f) The board shall approve an investment management entity
6 or entities, the costs of which shall be paid out of funds held in the
7 trust and shall not be attributed to the administrative costs of the
8 board in operating the trust. Not later than 30 days after the close
9 of each month, the board shall place on file for public inspection
10 during business hours a report with respect to investments made
11 pursuant to this section and a report of deposits in financial
12 institutions.

13 *SEC. 3. Section 100004 of the Government Code is amended*
14 *to read:*

15 100004. (a) There is hereby established a retirement savings
16 trust known as the California Secure Choice Retirement Savings
17 Trust to be administered by the board for the purpose of promoting
18 greater retirement savings for California private employees in a
19 convenient, voluntary, low-cost, and portable manner. After
20 sufficient funds are made available for this title to be operative,
21 the California Secure Choice Retirement Savings Trust, as a
22 self-sustaining trust, shall pay all costs of administration only out
23 of moneys on deposit therein.

24 (b) The board shall segregate moneys received by the California
25 Secure Choice Retirement Savings Trust into two funds, which
26 shall be identified as the program fund and the administrative fund.
27 Notwithstanding Section 13340, moneys in the trust are hereby
28 continuously appropriated, without regard to fiscal years, to the
29 board for the purposes of this title.

30 (c) Moneys in the program fund may be invested or reinvested
31 by the Treasurer or may be invested in whole or in part under
32 contract with the board of a California public retirement system,
33 with private money managers, or in myRAs, or a combination
34 thereof, as determined by the board.

35 (d) Transfers may be made from the program fund to the
36 administrative fund for the purpose of paying operating costs
37 associated with administering the trust and as required by this title,
38 including, but not limited to, board operations, program
39 administrator and investment expenses, and enforcement and
40 compliance costs. On and after six years from the date the program

is implemented, on an annual basis, expenditures from the administrative fund shall not exceed more than 1 percent of the total program fund. All costs of administration of the trust shall be paid out of the administrative fund.

(e) Any contributions paid by employees and employers into the trust shall be used exclusively for the purpose of paying benefits to the participants of the ~~California Secure Choice~~ *CalSavers* Retirement Savings Program, for the cost of administration of the program, and for investments made for the benefit of the program.

(f) The California Secure Choice Retirement Savings Trust is an instrumentality of the state. Any security issued, managed, or invested by the California Secure Choice Retirement Savings Investment Board within the California Secure Choice Retirement Savings Trust on behalf of an individual participating within the ~~California Secure Choice~~ *CalSavers* Retirement Savings Program shall be exempt from Sections 25110, 25120, and 25130 of the Corporation Code.

SEC. 4. Section 100008 of the Government Code is amended to read:

100008. The ~~California Secure Choice~~ *CalSavers* Retirement Savings Program shall include, as determined by the board, one or more payroll deduction IRA arrangements.

SEC. 5. Section 100012 of the Government Code is amended to read:

100012. In addition to the powers and authority granted to the board pursuant to Section 100010, the board shall have the power and authority to do the following:

(a) Cause the retirement savings program or arrangements established under the program to be designed, established, and operated, in a manner consistent with all of the following:

(1) In accordance with best practices for retirement savings vehicles.

(2) To encourage participation, saving, and sound investment practices, and appropriate selection of default investments.

(3) With simplicity, ease of administration for participating employers, and portability of benefits.

(b) Arrange for collective, common, and pooled investment of assets of the retirement savings program or arrangements, including investments in conjunction with other funds with which those

1 assets are permitted to be collectively invested, with a view to
2 saving costs through efficiencies and economies of scale.

3 (c) Disseminate educational information designed to educate
4 participants about the benefits of planning and saving for retirement
5 and information to help them decide the level of ~~California Secure~~
6 ~~Choice~~ CalSavers Retirement Savings Program participation and
7 savings strategies that may be appropriate for them.

8 (d) Disseminate information concerning tax credits available to
9 small business owners for allowing their employees to participate
10 in the program, and the federal Retirement Savings Contribution
11 Credit (Saver's Credit) available to lower and moderate-income
12 households for qualified savings contributions.

13 (e) Submit progress and status reports to participating employers
14 and eligible employees.

15 (f) If necessary, determine the eligibility of an employer,
16 employee, or other individual to participate in the program.

17 (g) Evaluate and establish the process by which an eligible
18 employee of an eligible employer is able to contribute a portion
19 of his or her salary or wages to the program for automatic deposit
20 of those contributions and the participating employer provides a
21 payroll deposit retirement savings arrangement to forward the
22 employee contribution and related information to the program or
23 its agents. This may include, but is not limited to, financial services
24 companies and third-party administrators with the capability to
25 receive and process employee information and contributions for
26 payroll deposit retirement savings arrangements or other
27 arrangements authorized by this title.

28 (h) Design and establish the process for the enrollment of
29 program participants.

30 (i) Allow participating employers to use the program to remit
31 employees' contributions to their IRAs on their employees' behalf.

32 (j) Allow participating employers to make their own
33 contributions to their employees' IRAs, provided that the
34 contributions would be permitted under the Internal Revenue Code
35 and would not cause the program to be treated as an employee
36 benefit plan under the federal Employee Retirement Income
37 Security Act.

38 (k) Evaluate and establish the process by which an individual
39 or an employee of a nonparticipating employer may enroll in and
40 make contributions to the program.

1 *SEC. 6. Section 100014 of the Government Code is amended*
2 *to read:*

3 100014. (a) Prior to opening the ~~California Secure Choice~~
4 *CalSavers* Retirement Savings Program for enrollment, the board
5 shall design and disseminate to employers through the Employment
6 Development Department (EDD) an employee information packet
7 that shall be available in an electronic format. The packet shall
8 include background information on the program and appropriate
9 disclosures for employees.

10 (b) The disclosure form shall include, but not be limited to, all
11 of the following:

12 (1) The benefits and risks associated with making contributions
13 to the program.

14 (2) The mechanics of how to make contributions to the program.

15 (3) How to opt out of the program.

16 (4) The process for withdrawal of retirement savings.

17 (5) How to obtain additional information on the program.

18 (c) In addition, the disclosure form shall clearly articulate the
19 following:

20 (1) Employees seeking financial advice should contact financial
21 advisors, that employers do not provide financial advice, that
22 employees are not to contact their employers for financial advice,
23 and that employers are not liable for decisions employees make
24 pursuant to Section 100034.

25 (2) This retirement program is not sponsored by the employer,
26 and therefore the employer is not responsible for the plan or liable
27 as a plan sponsor.

28 (3) The program fund is not guaranteed by the State of
29 California.

30 (d) The disclosure form shall include a method for the employee
31 to acknowledge that the employee has read all of the disclosures
32 and understands their content.

33 (e) The employee information packet shall also include an
34 opt-out form for an eligible employee to note his or her decision
35 to opt out of participation in the program. The opt-out notation
36 shall be simple and concise and drafted in a manner that the board
37 deems necessary to appropriately evidence the employee's
38 understanding that he or she is choosing not to automatically deduct
39 earnings to save for retirement.

(f) The employee information packet with the disclosure and opt-out forms shall be made available to employers through EDD and supplied to employees at the time of hiring. All new employees shall review the packet and acknowledge having received it.

(g) The employee information packet with the disclosure and opt-out forms shall be supplied to existing employees when the program is initially launched for that participating employer pursuant to Section 100032.

SEC. 7. Section 100016 of the Government Code is amended to read:

100016. (a) Prior to opening the ~~California Secure Choice~~ CalSavers Retirement Savings Program for enrollment, if there is sufficient interest by vendors to participate and provide the necessary funding, the board shall establish both of the following:

(1) A Retirement Investments Clearinghouse on its Internet Web site.

(2) A vendor registration process through which information about employer-sponsored retirement plans, and payroll deduction IRAs offered by private sector providers is made available for consideration by eligible employers.

(b) Vendors that would like to participate in the board's Retirement Investments Clearinghouse and be listed on the board's Internet Web site as a registered vendor shall provide all of the following information:

(1) A statement of experience in California and in other states in providing employer-sponsored retirement plans, and payroll deduction IRAs.

(2) A description by the vendor of the types of retirement investment products offered.

(3) A disclosure of all expenses paid directly or indirectly by retirement plan participants, including, but not limited to, penalties for early withdrawals, declining or fixed withdrawal charges, surrender or deposit charges, management fees, and annual fees, supported by documentation as required for prospectus disclosure by the National Association of Securities Dealers and the Securities and Exchange Commission. Vendors shall be required to provide information regarding the impact of product fees upon a hypothetical investment, as described in Section 100022.

1 (4) The types of products, product features, services offered to
2 participants, and information about how to access product
3 prospectuses or other relevant product information.

4 (5) A discussion of the ability, experience, and commitment of
5 the vendor to provide retirement counseling and education services,
6 including, but not limited to, access to group meetings and
7 individual counseling by various means, including telephone and
8 telecommunications devices for the deaf (TDD), Internet, and
9 face-to-face consultations by registered representatives.

10 (6) A statement of the financial strength of the vendor by
11 identifying its ratings assigned by nationally recognized rating
12 services that evaluate the financial strength of similar companies.

13 (7) The location of offices and counselors, individual registered
14 representatives, brokers, financial planners, agents, or other
15 methods of distribution, of the vendor that would serve employers
16 and their employees in California.

17 (8) A description of the ability of the vendor to comply with all
18 applicable provisions of federal and state law governing retirement
19 plans, including minimum distribution requirements and
20 contribution limits.

21 (9) To the extent applicable, the demonstrated ability of the
22 vendor to offer an appropriate array of accumulation funding
23 options, including, but not limited to, investment options that offer
24 guaranteed returns on contributions and the conversion of
25 retirement savings account balances to secure retirement income,
26 a diversified mix of value, growth, growth and income, hybrid,
27 and index funds or accounts across large, medium, and small
28 capitalization asset classes, both domestic and international.

29 (10) A discussion of the range of administrative and customer
30 services provided, including asset allocation, accounting and
31 administration of benefits for individual participants, recordkeeping
32 for individual participants, asset purchase, control, and safekeeping,
33 execution of a participant's instructions as to asset and contribution
34 allocation, calculation of daily net asset values, direct access for
35 participants to their account information, periodic reporting that
36 is not less than quarterly to active participants on their account
37 balances and transactions, and compliance with the standard of
38 care consistent with federal law and applicable to the provision of
39 investment services.

1 (11) Certification by the vendor that the information provided
2 to the board accurately reflects the provisions of the retirement
3 investment products it registers.

4 (c) Vendors shall supply information and data in the format
5 prescribed by the board.

6 *SEC. 8. Section 100032 of the Government Code is amended*
7 *to read:*

8 100032. (a) After the board opens the ~~California Secure Choice~~
9 *CalSavers* Retirement Savings Program for enrollment, any
10 employer may choose to have a payroll deposit retirement savings
11 arrangement to allow employee participation in the program under
12 the terms and conditions prescribed by the board.

13 (b) Within 12 months after the board opens the program for
14 enrollment, eligible employers with more than 100 eligible
15 employees and that do not offer a retirement savings program
16 pursuant to subdivision (g) shall have a payroll deposit retirement
17 savings arrangement to allow employee participation in the
18 program.

19 (c) Within 24 months after the board opens the program for
20 enrollment, eligible employers with more than 50 eligible
21 employees and that do not offer a retirement savings program
22 pursuant to subdivision (g) shall have a payroll deposit retirement
23 savings arrangement to allow employee participation in the
24 program.

25 (d) Within 36 months after the board opens the program for
26 enrollment, all other eligible employers that do not offer a
27 retirement savings program pursuant to subdivision (g) shall have
28 a payroll deposit retirement savings arrangement to allow employee
29 participation in the program.

30 (e) The board, in its discretion, may extend the time limits
31 defined in subdivisions (b) to (d), inclusive.

32 (f) (1) Each eligible employee shall be enrolled in the program
33 unless the employee elects not to participate in the program. An
34 eligible employee may elect to opt out of the program by making
35 a notation on the opt-out form.

36 (2) Following initial implementation of the program pursuant
37 to this section, at least once every two years, the board shall
38 designate an open enrollment period during which eligible
39 employees that previously opted out of the program shall be given
40 the employee information packet with the disclosure and opt-out

1 forms, for the employee to enroll in the program or opt out of the
2 program by making a notation on the opt-out form.

3 (3) An employee who elects to opt out of the program who
4 subsequently wants to participate through the employer's payroll
5 deposit retirement savings arrangement may only enroll during
6 the board's designated open enrollment period or if permitted at
7 an earlier time.

8 (g) (1) An employer that provides an employer-sponsored
9 retirement plan, such as a defined benefit plan or a 401(k),
10 Simplified Employee Pension (SEP) plan, or Savings Incentive
11 Match Plan for Employees (SIMPLE) plan, or that offers an
12 automatic enrollment payroll deduction IRA, shall be exempt from
13 the requirements of the ~~California Secure Choice~~ *CalSavers*
14 Retirement Savings Program, if the plan or IRA qualifies for
15 favorable federal income tax treatment under the federal Internal
16 Revenue Code.

17 (2) An employer shall retain the option at all times to set up and
18 offer a tax-qualified retirement plan, as described in paragraph (1),
19 instead of having a payroll deposit retirement savings arrangement
20 to allow employee participation in the ~~California Secure Choice~~
21 *CalSavers* Retirement Savings Program.

22 (h) An eligible employee may also terminate his or her
23 participation in the program at any time in a manner prescribed
24 by the board and thereafter by making a notation on the opt-out
25 form.

26 (i) Unless otherwise specified by the employee, a participating
27 employee shall contribute 3 percent of the employee's annual
28 salary or wages to the program.

29 (j) By regulation, the board may adjust the contribution amount
30 set in subdivision (i) to no less than 2 percent and no more than 5
31 percent and may vary that amount within that 2 percent to 5 percent
32 range for participating employees according to the length of time
33 the employee has contributed to the program.

34 (k) The board may implement annual automatic escalation of
35 employee contributions.

36 (1) Employee contributions subject to automatic escalation shall
37 not exceed 8 percent of salary.

38 (2) Automatic escalation shall result in no more than a
39 1-percent-of-salary increase in employee contributions per calendar
40 year.

1 (3) A participating employee may elect to opt out of automatic
2 escalation and may set his or her contribution percentage rate at a
3 level determined by the participating employee.

4 *SEC. 9. Section 100034 of the Government Code is amended*
5 *to read:*

6 100034. (a) Employers shall not have any liability for an
7 employee's decision to participate in, or opt out of, the ~~California~~
8 ~~Secure Choice~~ CalSavers Retirement Savings Program, or for the
9 investment decisions of employees whose assets are deposited in
10 the program.

11 (b) Employers shall not be a fiduciary, or considered to be a
12 fiduciary, over the California Secure Choice Retirement Savings
13 Trust or the program. The program is a state-administered program,
14 not an employer-sponsored program. If the program is subsequently
15 found to be preempted by any federal law or regulation, employers
16 shall not be liable as plan sponsors. An employer shall not bear
17 responsibility for the administration, investment, or investment
18 performance of the program. An employer shall not be liable with
19 regard to investment returns, program design, and benefits paid to
20 program participants.

21 (c) An employer's voluntary contribution under subdivision (j)
22 of Section 100012 shall not in any way contradict the provisions
23 of this section or change the employer's relationship to the program
24 or an employer's obligations to employees.

25 (d) An employer shall not have civil liability, and no cause of
26 action shall arise against an employer, for acting pursuant to the
27 regulations prescribed by the board defining the roles and
28 responsibilities of employers that have a payroll deposit retirement
29 savings arrangement to allow employee participation in the
30 program.

31 *SEC. 10. Section 100046 of the Government Code is amended*
32 *to read:*

33 100046. The ~~California Secure Choice~~ CalSavers Retirement
34 Savings Program is approved by the Legislature and implemented
35 as of January 1, 2017. The board shall consider and utilize the
36 following parameters in designing the program:

37 (a) The board shall include a provider of in-home supportive
38 services, as regulated by Article 7 (commencing with Section
39 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and
40 Institutions Code in the program if the board determines, and the

1 Director of the State Department of Social Services and the
2 Director of the Department of Finance certify, in writing, all of
3 the following:

4 (1) The inclusion meets all state and federal legal requirements.

5 (2) The appropriate employer of record has been identified for
6 the purpose of satisfying all the program's employer requirements.

7 (3) The payroll deduction, described in Section 12302.2 of the
8 Welfare and Institutions Code, can be implemented at reasonable
9 costs.

10 (4) The inclusion does not create a financial liability for the
11 state or employer of record.

12 (b) The board shall structure the program so as to ensure the
13 state is prohibited from incurring liabilities associated with
14 administering the program and that the state has no liability for
15 the program or its investments.

16 (c) The board shall determine necessary costs associated with
17 outreach, customer service, enforcement, staffing and consultant
18 costs, and all other costs necessary to administer the program.

19 (d) The board shall consult with employer representatives to
20 create an administrative structure that facilitates employee
21 participation while addressing employer needs, including, but not
22 limited to, clearly defining employers' duties and liability
23 exemption pursuant to Section 100034.

24 (e) The board shall include comprehensive worker education
25 and outreach in the program, and the board may collaborate with
26 state and local government agencies, community-based and
27 nonprofit organizations, foundations, vendors, and other entities
28 deemed appropriate to develop and secure ongoing resources for
29 education and outreach that reflect the cultures and languages of
30 the state's diverse workforce population.

31 (f) The board shall include comprehensive employer education
32 and outreach in the program, with an emphasis on employers with
33 less than 100 employees, developed in consultation with employer
34 representatives, with the integration of the following components:

35 (1) A program Internet Web site to assist the employers of
36 participating employees.

37 (2) A toll-free help line for employers with live and automated
38 assistance.

39 (3) Online Internet Web training.

40 (4) Live presentations to business associations.

1 (5) Targeted outreach to small businesses with 10 or less
2 employees.

3 *SEC. 11. Section 100049 of the Government Code is amended*
4 *to read:*

5 100049. A payroll deposit IRA arrangement offered pursuant
6 to the ~~California Secure Choice~~ CalSavers Retirement Savings
7 Program shall have the same status as, and be treated consistently
8 with, any other IRA for the purpose of determining eligibility or
9 benefit level for a program that uses a means test.

10 *SEC. 12. Section 1088.9 of the Unemployment Insurance Code*
11 *is amended to read:*

12 1088.9. (a) The department shall have the power and duties
13 necessary to administer the enforcement of employer compliance
14 with Title 21 (commencing with Section 100000) of the
15 Government Code.

16 (b) An eligible employer shall use the opt-out form in the
17 employee information packet disseminated by the department to
18 create an option for an eligible employee to note his or her decision
19 to opt out of utilizing the ~~California Secure Choice~~ CalSavers
20 Retirement Savings Program.

21 (c) Each eligible employer that, without good cause, fails to
22 allow its eligible employees to participate in the ~~California Secure~~
23 ~~Choice~~ CalSavers Retirement Savings Program pursuant to
24 Sections 100014 and 100032 of the Government Code, on or before
25 90 days after service of notice by the director pursuant to Section
26 1206 of its failure to comply, shall pay a penalty of two hundred
27 fifty dollars (\$250) per eligible employee if noncompliance extends
28 90 days or more after the notice, and if found to be in
29 noncompliance 180 days or more after the notice, an additional
30 penalty of five hundred dollars (\$500) per eligible employee.

31 (d) The department shall enforce this penalty as part of its
32 existing investigation and audit function.

33 (e) The provisions of this article, the provisions of Article 9
34 (commencing with Section 1176), with respect to refunds and
35 overpayments, and the provisions of Article 11 (commencing with
36 Section 1221), with respect to administrative appellate review shall
37 apply to the penalty imposed by this section. Penalties collected
38 pursuant to this section shall be deposited in the contingent fund.

39 (f) This section shall become operative six months after the
40 board notifies the Director of Employment Development that the

1 full implementation of Title 21 (commencing with Section 100000)
2 of the Government Code will proceed. Upon receipt of the
3 notification from the board, the department shall immediately post
4 on its Internet Web site a notice stating that this section is
5 operative, and the date that it is first operative.

6 (g) If the department participates in the implementation and
7 administration of the program, it may charge the board a reasonable
8 fee for costs it incurs for implementing and administering the
9 program.

10 *SEC. 13. Section 12302.2 of the Welfare and Institutions Code*
11 *is amended to read:*

12 12302.2. (a) (1) If the state or a county makes or provides for
13 direct payment to a provider chosen by a recipient or to the
14 recipient for the purchase of in-home supportive services, the
15 department shall perform or ensure the performance of all rights,
16 duties, and obligations of the recipient relating to those services
17 as required for purposes of unemployment compensation,
18 unemployment compensation disability benefits, workers'
19 compensation, retirement savings accounts, including payroll
20 deduction IRA arrangements offered pursuant to the ~~California~~
21 ~~Secure Choice~~ CalSavers Retirement Savings Program (Title 21
22 (commencing with Section 100000) of the Government Code),
23 federal and state income tax, and federal old-age, survivors, and
24 disability insurance benefits. Those rights, duties, and obligations
25 include, but are not limited to, registration and obtaining employer
26 account numbers, providing information, notices, and reports,
27 making applications and returns, and withholding in trust from the
28 payments made to or on behalf of a recipient amounts to be
29 withheld from the wages of the provider by the recipient as an
30 employer, including the sales tax extended to support services by
31 Article 4 (commencing with Section 6150) of Chapter 2 of Part 1
32 of Division 2 of the Revenue and Taxation Code, and transmitting
33 those amounts along with amounts required for all contributions,
34 premiums, and taxes payable by the recipient as the employer to
35 the appropriate person or state or federal agency. The department
36 may ensure the performance of any or all of these rights, duties,
37 and obligations by contract with any person, or any public or
38 private agency.

39 (2) Contributions, premiums, and taxes shall be paid or
40 transmitted on the recipient's behalf as the employer for any period

1 commencing on or after January 1, 1978, except that contributions,
2 premiums, and taxes for federal and state income taxes and federal
3 old-age, survivors, and disability insurance contributions shall be
4 paid or transmitted pursuant to this section commencing with the
5 first full month that begins 90 days after the effective date of this
6 section.

7 (3) Contributions, premiums, and taxes paid or transmitted on
8 the recipient's behalf for unemployment compensation, workers'
9 compensation, and the employer's share of federal old-age,
10 survivors, and disability insurance benefits shall be payable in
11 addition to the maximum monthly amount established pursuant to
12 Section 12303.5 or subdivision (a) of Section 12304 or other
13 amount payable to or on behalf of a recipient. Contributions,
14 premiums, or taxes resulting from liability incurred by the recipient
15 as employer for unemployment compensation, workers'
16 compensation, and federal old-age, survivors, and disability
17 insurance benefits with respect to any period commencing on or
18 after January 1, 1978, and ending on or before the effective date
19 of this section shall also be payable in addition to the maximum
20 monthly amount established pursuant to Section 12303.5 or
21 subdivision (a) of Section 12304 or other amount payable to or on
22 behalf of the recipient. Nothing in this section shall be construed
23 to permit any interference with the recipient's right to select the
24 provider of services or to authorize a charge for administrative
25 costs against any amount payable to or on behalf of a recipient.

26 (b) If the state makes or provides for direct payment to a
27 provider chosen by a recipient, the Controller shall make any
28 deductions from the wages of in-home supportive services
29 personnel that are authorized by Sections 1152 and 1153 of the
30 Government Code, as limited by Section 3515.6 of the Government
31 Code, and for the sales tax extended to support services by Article
32 4 (commencing with Section 6150) of Chapter 2 of Part 1 of
33 Division 2 of the Revenue and Taxation Code.

34 (c) Funding for the costs of administering this section and for
35 contributions, premiums, and taxes paid or transmitted on the
36 recipient's behalf as an employer pursuant to this section shall
37 qualify, where possible, for the maximum federal reimbursement.
38 To the extent that federal funds are inadequate, notwithstanding
39 Section 12306, the state shall provide funding for the purposes of
40 this section.

1 SECTION 1. ~~Section 352.1 of the Evidence Code is amended~~
2 ~~to read:~~

3 ~~352.1. (a) In any criminal proceeding under Section 261, 262,~~
4 ~~or 264.1, subdivision (d) of Section 286, or subdivision (d) of~~
5 ~~Section 288a of the Penal Code, or in any criminal proceeding~~
6 ~~under subdivision (e) of Section 286 or subdivision (e) of Section~~
7 ~~288a of the Penal Code in which the defendant is alleged to have~~
8 ~~compelled the participation of the victim by force, violence, duress,~~
9 ~~menace, or threat of great bodily harm, the district attorney may,~~
10 ~~upon written motion with notice to the defendant or the defendant's~~
11 ~~attorney, if he or she is represented by an attorney, within a~~
12 ~~reasonable time prior to any hearing, move to exclude from~~
13 ~~evidence the current address and telephone number of any victim~~
14 ~~at the hearing.~~

15 ~~(b) The court may order that evidence of the victim's current~~
16 ~~address and telephone number be excluded from any hearings~~
17 ~~conducted pursuant to the criminal proceeding if the court finds~~
18 ~~that the probative value of the evidence is outweighed by the~~
19 ~~creation of substantial danger to the victim.~~

20 ~~(c) Nothing in this section shall abridge or limit the defendant's~~
21 ~~right to discover or investigate the information.~~