

AMENDED IN ASSEMBLY MARCH 24, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 468

Introduced by Assembly Members Gabriel, Irwin, and Pacheco
(Coauthors: Assembly Members ~~Flora~~ Flora, Michelle Rodriguez,
and Wallis)
(Coauthor: Senator Allen)

February 6, 2025

An act to amend Section 459 of, to add Sections 463.2, 538i, and 12022.67 to, and to repeal and add Section 463 of, the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 468, as amended, Gabriel. Crimes: looting.

Existing law defines the crime of burglary as entering specified buildings, places, or vehicles with the intent to commit grand or petty theft or a felony. Existing law clarifies that a structure designed for habitation is being used for dwelling purposes if, at the time of the burglary, it was not occupied solely because a disaster caused the occupants to leave the premises.

This bill would specify that neither the fact that the structure entered has been damaged by a natural or other disaster, nor the extent of the damage, shall preclude conviction.

Existing law defines looting as the commission of certain offenses during and within an affected county in a state of emergency or local emergency, as specified. Existing law includes any 2nd-degree burglary or grand theft in the definition of looting, and makes looting based on those offenses punishable by either imprisonment in a county jail for

one year or as a felony. Existing law also makes the crime of looting based on petty theft punishable as a misdemeanor.

Existing regulations define an “evacuation area” as a geographic area from which civilians have been evacuated pursuant to an evacuation order and where movement and entry are controlled by fire and law enforcement personnel having jurisdictional authority. Existing regulations define an “evacuation warning” as alerting community members in a defined area of a potential threat to life or property.

This bill would recast the offense of looting to include adding 1st degree burglary, 2nd degree burglary, grand theft, trespass, and theft from a vehicle, when those offenses are committed in an evacuation zone, to the crime of looting. The bill would also, for the purposes of looting, define an evacuation zone as an evacuation area or an area subject to an evacuation warning and would include in the definition a principal residence, as defined, while it is undergoing reconstruction following damage or destruction caused by a disaster after an evacuation order or warning has been lifted. The bill would impose increased penalties for these offenses committed within an evacuation zone, as specified, and would thus create a state-mandated local program.

Existing law requires a person arrested for a misdemeanor to be released on a notice to appear except as specified.

This bill would prohibit a person arrested for looting from being released on a notice to appear and would require the court, before such a person is released, to make a judicial determination of their risk to public safety and likelihood of returning to court.

Existing law makes it a misdemeanor to impersonate certain personnel, including a peace officer or an officer or member of a fire department, with the intent of fraudulently impersonating such a person, or of fraudulently inducing the belief that they are such a person.

This bill would make it a felony punishable by imprisonment in the state prison for a person, other than specified emergency services providers or members of the military, to wear, exhibit, or use the uniform, insignia, emblem, device, label, certificate, card, or writing of one of those specified emergency services providers or members of the military with the intent of fraudulently inducing the belief that they are one of those specified emergency services providers or members of the military during and within an affected county in a state of emergency, a local emergency, or under an evacuation order, as specified. The bill would also impose a sentencing enhancement if a

person other than a specified emergency services provider or member of the military wears, exhibits, or uses the uniform, insignia, emblem, device, label, certificate, card, or writing of one of those specified emergency services providers or members of the military during the commission of a felony during and within a state of emergency, local emergency, or evacuation order, as specified.

By creating a new crime, by increasing the punishment of specified crimes, and by creating new enhancements, this bill would impose a state-mandated local program.

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, the California Emergency Services Act, authorizes the Governor to proclaim a state of emergency, as defined, under specified circumstances. Existing law defines any 2nd degree burglary or grand theft during and within an affected county in a state of emergency or local emergency, as specified, as looting, punishable as either a misdemeanor or a felony. Existing law defines petty theft during and within an affected county in a state of emergency or local emergency, as specified, as looting, punishable as a misdemeanor.~~

~~This bill would state the intent of the Legislature to enact legislation relating to looting.~~

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 459 of the Penal Code is amended to*
2 *read:*
3 459. (a) Every person who enters any house, room, apartment,
4 tenement, shop, warehouse, store, mill, barn, stable, outhouse or
5 other building, tent, vessel, as defined in Section 21 of the Harbors
6 and Navigation Code, floating home, as defined in subdivision (d)
7 of Section 18075.55 of the Health and Safety Code, railroad car,
8 locked or sealed cargo container, whether or not mounted on a
9 vehicle, trailer coach, as defined in Section 635 of the Vehicle
10 Code, any house car, as defined in Section 362 of the Vehicle

1 Code, inhabited camper, as defined in Section 243 of the Vehicle
2 Code, vehicle as defined by the Vehicle Code, when the doors are
3 locked, aircraft as defined by Section 21012 of the Public Utilities
4 Code, or mine or any underground portion thereof, with intent to
5 commit grand or petit larceny or any felony is guilty of burglary.
6 As used in this chapter, “inhabited” means currently being used
7 for dwelling purposes, whether occupied or not. A house, trailer,
8 vessel designed for habitation, or portion of a building is currently
9 being used for dwelling purposes if, at the time of the burglary, it
10 was not occupied solely because a natural or other disaster caused
11 the occupants to leave the premises.

12 *(b) The fact that the structure entered has been damaged by a*
13 *natural or other disaster, or the extent of that damage, does not*
14 *preclude conviction.*

15 *SEC. 2. Section 463 of the Penal Code is repealed.*

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

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

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

27 ~~(c) Every person who commits the crime of petty theft, as~~
28 ~~defined in Section 488, during and within an affected county in a~~
29 ~~“state of emergency” or a “local emergency,” or under an~~
30 ~~“evacuation order,” resulting from an earthquake, fire, flood, riot,~~
31 ~~or other natural or manmade disaster shall be guilty of a~~
32 ~~misdemeanor, punishable by imprisonment in a county jail for six~~
33 ~~months. Any person convicted under this subdivision who is~~
34 ~~eligible for probation and who is granted probation shall, as a~~
35 ~~condition thereof, be confined in a county jail for at least 90 days,~~
36 ~~except that the court may, in the case where the interest of justice~~
37 ~~would best be served, reduce or eliminate that mandatory minimum~~
38 ~~jail sentence, if the court specifies on the record and enters into~~
39 ~~the minutes the circumstances indicating that the interest of justice~~
40 ~~would best be served by that disposition. In addition to whatever~~

1 custody is ordered, the court, in its discretion, may require any
2 person granted probation following conviction under this
3 subdivision to serve up to 80 hours of community service in any
4 program deemed appropriate by the court, including any program
5 created to rebuild the community.

6 (d) (1) For purposes of this section, “state of emergency” means
7 conditions that, by reason of their magnitude, are, or are likely to
8 be, beyond the control of the services, personnel, equipment, and
9 facilities of any single county, city and county, or city and require
10 the combined forces of a mutual aid region or regions to combat.

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

16 (3) For purposes of this section, a “state of emergency” shall
17 exist from the time of the proclamation of the condition of the
18 emergency until terminated pursuant to Section 8629 of the
19 Government Code. For purposes of this section only, a “local
20 emergency” shall exist from the time of the proclamation of the
21 condition of the emergency by the local governing body until
22 terminated pursuant to Section 8630 of the Government Code.

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

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

32 *SEC. 3. Section 463 is added to the Penal Code, to read:*

33 *463. (a) For the purposes of this section, the following terms*
34 *shall have the following meanings:*

35 *(1) “Evacuation order” means an order from the Governor, or*
36 *a county sheriff, chief of police, or fire marshal, under which*
37 *persons subject to the order are required to relocate outside of*
38 *the geographic area covered by the order due to an imminent*
39 *danger resulting from an earthquake, fire, flood, riot, or other*
40 *natural or manmade disaster.*

1 (2) “Evacuation zone” means an evacuation area or an area
2 subject to an evacuation warning, as defined in Section 2470.1 of
3 Title 19 of the California Code of Regulations. An evacuation zone
4 includes a principal residence while it is undergoing reconstruction
5 following damage or destruction caused by an earthquake, fire,
6 flood, riot, or other natural or manmade disaster, after an
7 evacuation order or warning has been lifted.

8 (3) “Local emergency” means conditions that, by reason of
9 their magnitude, are, or are likely to be, beyond the control of the
10 services, personnel, equipment, and facilities of any single county,
11 city and county, or city and require the combined forces of a mutual
12 aid region or regions to combat. A “local emergency” shall exist
13 from the time of the proclamation of the condition of the emergency
14 by the local governing body until terminated pursuant to Section
15 8630 of the Government Code.

16 (4) “Principal residence” means a residence, as described in
17 Section 50425 of Title 22 of the California Code of Regulations.

18 (5) “State of emergency” means conditions that, by reason of
19 their magnitude, are, or are likely to be, beyond the control of the
20 services, personnel, equipment, and facilities of any single county,
21 city and county, or city and require the combined forces of a mutual
22 aid region or regions to combat. A “state of emergency” shall
23 exist from the time of the proclamation of the condition of the
24 emergency until terminated pursuant to Section 8629 of the
25 Government Code.

26 (b) All of the following offenses when committed during and
27 within an affected county in a “state of emergency” or a “local
28 emergency,” or under an “evacuation order,” resulting from an
29 earthquake, fire, flood, riot, or other natural or manmade disaster
30 are looting and, except as provided in subdivision (c), are
31 punishable as follows:

32 (1) A violation of Section 459, punishable as a second-degree
33 burglary pursuant to subdivision (b) of Section 461, is punishable
34 by imprisonment in a county jail for one year or pursuant to
35 subdivision (h) of Section 1170.

36 (2) A violation of Section 487 or subdivision (a) of Section 487a,
37 except grand theft of a firearm, is punishable by imprisonment in
38 a county jail for one year or pursuant to subdivision (h) of Section
39 1170.

1 (3) *Grand theft of a firearm, as defined in Section 487, is*
2 *punishable by imprisonment in the state prison, as set forth in*
3 *subdivision (a) of Section 489.*

4 (4) *A violation of Section 488 is punishable by imprisonment*
5 *in a county jail for six months.*

6 (c) *All of the following offenses when committed during and*
7 *within an evacuation zone or in an area that was in an evacuation*
8 *zone are looting and, notwithstanding subdivision (b), are*
9 *punishable as follows:*

10 (1) *A violation of Section 459, punishable as a first-degree*
11 *burglary pursuant to subdivision (a) of Section 461, is punishable*
12 *by imprisonment in the state prison for a term of three, four, or*
13 *seven years.*

14 (2) *A violation of Section 459, punishable as a second-degree*
15 *burglary pursuant to subdivision (b) of Section 461, is punishable*
16 *by imprisonment in the county jail for a term of two, three, or four*
17 *years, pursuant to subdivision (h) of Section 1170.*

18 (3) *A violation of Section 487 or subdivision (a) of Section 487a,*
19 *except grand theft of a firearm, is punishable by imprisonment in*
20 *a county jail for a term of two, three, or four years pursuant to*
21 *subdivision (h) of Section 1170.*

22 (4) *A violation of Section 602, with the intent to commit larceny,*
23 *punishable by imprisonment in a county jail for a term of two,*
24 *three, or four years pursuant to subdivision (h) of Section 1170.*

25 (5) *Notwithstanding paragraph (3), theft from an unlocked*
26 *vehicle is punishable by imprisonment in a county jail for one year*
27 *or pursuant to subdivision (h) of Section 1170.*

28 (d) (1) *A person convicted of an offense described in paragraph*
29 *(1), (2), or (3) of subdivision (b) or an offense described in*
30 *subdivision (c) who is granted probation shall, as a condition of*
31 *probation, be confined in a county jail for at least 180 days, except*
32 *that the court may, in a case where the interest of justice would*
33 *best be served, reduce or eliminate that mandatory jail sentence*
34 *if the court specifies on the record and enters into the minutes the*
35 *circumstances indicating that the interest of justice would best be*
36 *served by that disposition.*

37 (2) *In addition to whatever custody is ordered, the court may*
38 *require any person granted probation following conviction under*
39 *paragraph (1) of subdivision (b) to serve up to 240 hours of*
40 *community service and may require any person granted probation*

1 following conviction of an offense described in paragraph (2) or
2 (3) of subdivision (b) or an offense described in subdivision (c) to
3 serve up to 160 hours of community service.

4 (3) A person convicted under paragraph (4) of subdivision (b)
5 who is granted probation shall, as a condition of probation, be
6 confined in a county jail for at least 90 days, except that the court
7 may, in a case where the interest of justice would best be served,
8 reduce or eliminate that mandatory minimum jail sentence if the
9 court specifies on the record and enters into the minutes the
10 circumstances indicating that the interest of justice would best be
11 served by that disposition. In addition to whatever custody is
12 ordered, the court may require any person granted probation
13 following conviction under this subdivision to serve up to 80 hours
14 of community service.

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

18 (f) For purposes of this section, the fact that the structure
19 entered has been damaged by the earthquake, fire, flood, or other
20 natural or manmade disaster shall not, in and of itself, preclude
21 conviction.

22 (g) Notwithstanding Section 853.6, a person arrested for a
23 violation of this section shall not be released on a notice to appear.
24 Upon any arrest for a violation of this section, the person shall be
25 brought before a magistrate and the court shall, before the person
26 may be released, make an individualized determination of the
27 person's risk to public safety and likelihood they will return to
28 court.

29 SEC. 4. Section 463.2 is added to the Penal Code, to read:

30 463.2. (a) A person who is convicted of a violation of Section
31 463 within an evacuation zone while impersonating emergency
32 personnel shall, in addition and consecutive to the penalty provided
33 for the felony or attempted felony of which they have been
34 convicted, be punished by an additional and consecutive term of
35 one, two, or three years.

36 (b) For purposes of this section, the following terms shall have
37 the following meanings:

38 (1) "Emergency personnel" is defined as a peace officer, an
39 officer or member of a fire department or a deputy state fire
40 marshal, an employee of a public utility or district, state, county,

1 city, or special district, a city and county officer or employee, an
2 officer or member of a governmental agency-managed or -affiliated
3 search and rescue unit or team, an officer or member of the Armed
4 Forces of the United States, the California National Guard, the
5 State Guard, the Naval Militia, the national guard of any other
6 state, or any other reserve component of the Armed Forces of the
7 United States, or an emergency medical technician, as defined in
8 Division 2.5 (commencing with Section 1797) of the Health and
9 Safety Code.

10 (2) "Evacuation zone" has the same meaning as in Section 463.

11 (3) "Impersonating" means willful wearing, exhibiting, or using
12 of an authorized uniform, insignia, emblem, device, label,
13 certificate, card, or writing of emergency personnel with the intent
14 of fraudulently inducing the belief that they are a member of
15 emergency personnel.

16 SEC. 5. Section 538i is added to the Penal Code, to read:

17 538i. Any person other than a peace officer, an officer or
18 member of a fire department or a deputy state fire marshal, an
19 employee of a public utility or district, state, county, city, or special
20 district, a city and county officer or employee, an officer or member
21 of a governmental agency-managed or -affiliated search and rescue
22 unit or team, an officer or member of the Armed Forces of the
23 United States, the California National Guard, the State Guard,
24 the Naval Militia, the national guard of any other state, or any
25 other reserve component of the Armed Forces of the United States,
26 or an emergency medical technician, as defined in Division 2.5
27 (commencing with Section 1797) of the Health and Safety Code,
28 during and within an evacuation zone, as defined in Section 463,
29 willfully wears, exhibits, or uses the authorized uniform, insignia,
30 emblem, device, label, certificate, card, or writing of a peace
31 officer, an officer or member of a fire department or a deputy state
32 fire marshal, an employee of a public utility or district, state,
33 county, city, or special district, a city and county officer or
34 employee, an officer or member of a governmental
35 agency-managed or -affiliated search and rescue unit or team, an
36 officer or member of the Armed Forces of the United States, the
37 California National Guard, the State Guard, the Naval Militia,
38 the national guard of any other state, or any other reserve
39 component of the Armed Forces of the United States, or an
40 emergency medical technician, as defined in Division 2.5

(commencing with Section 1797) of the Health and Safety Code, with the intent of fraudulently inducing the belief that they are a peace officer, an officer or member of a fire department or a deputy state fire marshal, an employee of a public utility or district, state, county, city, or special district, a city and county officer or employee, an officer or member of a governmental agency-managed or -affiliated search and rescue unit or team, an officer or member of the Armed Forces of the United States, the California National Guard, the State Guard, the Naval Militia, the national guard of any other state, or any other reserve component of the Armed Forces of the United States, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, is guilty of a felony punishable pursuant to subdivision (h) of Section 1170.

SEC. 6. Section 12022.67 is added to the Penal Code, to read:

12022.67. Notwithstanding Section 538i, any person other than a peace officer, an officer or member of a fire department or a deputy state fire marshal, an employee of a public utility or district, state, county, city, or special district, a city and county officer or employee, an officer or member of a governmental agency-managed or -affiliated search and rescue unit or team, an officer or member of the Armed Forces of the United States, the California National Guard, the State Guard, the Naval Militia, the national guard of any other state, or any other reserve component of the Armed Forces of the United States, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, during and within an evacuation zone, as defined in Section 463, willfully wears, exhibits, or uses the authorized uniform, insignia, emblem, device, label, certificate, card, or writing of a peace officer, an officer or member of a fire department or a deputy state fire marshal, an employee of a public utility or district, state, county, city, or special district, a city and county officer or employee, an officer or member of a governmental agency-managed or -affiliated search and rescue unit or team, an officer or member of the Armed Forces of the United States, the California National Guard, the State Guard, the Naval Militia, the national guard of any other state, or any other reserve component of the Armed Forces of the United States, or an

1 *emergency medical technician, as defined in Division 2.5*
2 *(commencing with Section 1797) of the Health and Safety Code,*
3 *during the commission of a felony, shall be punished by an*
4 *additional and consecutive term of imprisonment for three, four,*
5 *or six years.*

6 *SEC. 7. No reimbursement is required by this act pursuant to*
7 *Section 6 of Article XIII B of the California Constitution because*
8 *the only costs that may be incurred by a local agency or school*
9 *district will be incurred because this act creates a new crime or*
10 *infraction, eliminates a crime or infraction, or changes the penalty*
11 *for a crime or infraction, within the meaning of Section 17556 of*
12 *the Government Code, or changes the definition of a crime within*
13 *the meaning of Section 6 of Article XIII B of the California*
14 *Constitution.*

15 ~~SECTION 1. It is the intent of the Legislature to enact~~
16 ~~legislation relating to looting.~~