

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.

LEGISLATIVE COUNSEL’S DIGEST

AB 354, as introduced, Michelle Rodriguez. Crimes: looting.

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.
State-mandated local program: no.

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

1 SECTION 1. Section 463 of the Penal Code is amended to
2 read:
3 463. (a) Every person who violates Section 459, punishable
4 as a second-degree burglary pursuant to subdivision (b) of Section
5 461, during and within an affected county in a “state of emergency”
6 or a “local emergency,” or under an “evacuation order,” resulting
7 from an earthquake, fire, flood, riot, or other natural or manmade

1 disaster shall be guilty of the crime of looting, punishable by
2 imprisonment in a county jail for one year or pursuant to
3 subdivision (h) of Section 1170. ~~Any~~ A person convicted under
4 this subdivision who is eligible for probation and who is granted
5 probation shall, as a condition thereof, be confined in a county jail
6 for at least 180 days, except that the court may, in the case where
7 the interest of justice would best be served, reduce or eliminate
8 that mandatory jail sentence, if the court specifies on the record
9 and enters into the minutes the circumstances indicating that the
10 interest of justice would best be served by that disposition. In
11 addition to whatever custody is ordered, the court, in its discretion,
12 may require any person granted probation following conviction
13 under this subdivision to serve up to 240 hours of community
14 service in any program deemed appropriate by the court, including
15 any program created to rebuild the community.

16 For purposes of this subdivision, the fact that the structure
17 entered has been damaged by the earthquake, fire, flood, or other
18 natural or manmade disaster shall not, in and of itself, preclude
19 conviction.

20 (b) Every person who commits the crime of grand theft, as
21 defined in Section 487 or subdivision (a) of Section 487a, except
22 grand theft of a firearm, during and within an affected county in
23 a “state of emergency” or a “local emergency,” or under an
24 “evacuation order,” resulting from an earthquake, fire, flood, riot,
25 or other natural or unnatural disaster shall be guilty of the crime
26 of looting, punishable by imprisonment in a county jail for one
27 year or pursuant to subdivision (h) of Section 1170. Every person
28 who commits the crime of grand theft of a firearm, as defined in
29 Section 487, during and within an affected county in a “state of
30 emergency” or a “local emergency” resulting from an earthquake,
31 fire, flood, riot, or other natural or unnatural disaster shall be guilty
32 of the crime of looting, punishable by imprisonment in the state
33 prison, as set forth in subdivision (a) of Section 489. Any person
34 convicted under this subdivision who is eligible for probation and
35 who is granted probation shall, as a condition thereof, be confined
36 in a county jail for at least 180 days, except that the court may, in
37 the case where the interest of justice would best be served, reduce
38 or eliminate that mandatory jail sentence, if the court specifies on
39 the record and enters into the minutes the circumstances indicating
40 that the interest of justice would best be served by that disposition.

1 In addition to whatever custody is ordered, the court, in its
2 discretion, may require any person granted probation following
3 conviction under this subdivision to serve up to 160 hours of
4 community service in any program deemed appropriate by the
5 court, including any program created to rebuild the community.

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

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

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

35 (3) For purposes of this section, a “state of emergency” shall
36 exist from the time of the proclamation of the condition of the
37 emergency until terminated pursuant to Section 8629 of the
38 Government Code. For purposes of this section only, a “local
39 emergency” shall exist from the time of the proclamation of the

1 condition of the emergency by the local governing body until
2 terminated pursuant to Section 8630 of the Government Code.

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

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