

(g) A prior separate prison term for the purposes of this section shall mean a continuous completed period of prison incarceration imposed for the particular offense alone or in combination with concurrent or consecutive sentences for other crimes, including any reimprisonment on revocation of parole which is not accompanied by a new commitment to prison, and including any reimprisonment after an escape from incarceration.

(h) Serving a prison term includes any confinement time in any state prison or federal penal institution as punishment for commission of an offense, including confinement in a hospital or other institution or facility credited as service of prison time in the jurisdiction of the confinement.

(i) For the purposes of this section, a commitment to the State Department of Mental Health as a mentally disordered sex offender following a conviction of a felony, which commitment exceeds one year in duration, shall be deemed a prior prison term.

(j) For the purposes of this section, when a person subject to the custody, control, and discipline of the Director of Corrections is incarcerated at a facility operated by the Department of the Youth Authority, that incarceration shall be deemed to be a term served in state prison.

(k) Notwithstanding subdivisions (d) and (g) or any other provision of law, where one of the new offenses is committed while the defendant is temporarily removed from prison pursuant to Section 2690 or while the defendant is transferred to a community facility pursuant to Section 3416, 6253, or 6263, or while the defendant is on furlough pursuant to Section 6254, the defendant shall be subject to the full enhancements provided for in this section.

This subdivision shall not apply when a full, separate, and consecutive term is imposed pursuant to any other provision of law.

SECTION 8. AMENDMENTS TO SECTION 1170.12 OF THE PENAL CODE

(This format presents struck wording in ~~*italics and strikeout*~~ and new wording in *italics*.)

Section 1170.12 of the Penal Code is amended to read:

(a) It is the intent of the People of the State of California in enacting subdivisions (b) to (h), inclusive, to ensure longer prison sentences and greater punishment for those who commit a serious and/or violent felony and have been previously convicted of serious and/or violent felony offenses.

~~*(a)*~~ *(b)* Notwithstanding any other provision of law, if a defendant has been convicted of a serious and/or violent felony and it has been pled, ~~and~~ *proved and that were brought and tried separately* that the defendant has been convicted of one or more prior serious and/or violent felony convictions, as defined in subdivision the court shall adhere to each of the following:

(1) There shall not be an aggregate term limitation for purposes of consecutive sentencing for any subsequent felony conviction.

(2) Probation for the current offense shall not be granted, nor shall execution or imposition of the sentence be suspended for any prior offense.

(3) The length of time between the prior ~~*violent or serious*~~ *serious and/or violent* felony conviction and the current *serious and/or violent* felony conviction shall not affect the imposition of sentence.

(4) There shall not be a commitment to any other facility other than the state prison.

Diversion shall not be granted nor shall the defendant be eligible for commitment to the California Rehabilitation Center as provided in Article 2 (commencing with Section 3050) of Chapter 1 of Division 3 of the Welfare and Institutions Code.

(5) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not exceed one-fifth of the total term of imprisonment imposed and shall not accrue until the defendant is physically placed in the state prison.

(6) If there is a current conviction for more than one *serious and/or violent* felony count not committed on the same occasion, and not arising from the same set of operative facts, the court shall sentence the defendant consecutively on each count pursuant to this section, and

(7) If there is a current conviction for more than one serious or violent felony as described in paragraph (6) of this subdivision, the court shall impose the sentence for each conviction consecutive to the sentence for any other conviction for which the defendant may be consecutively sentenced in the manner prescribed by law.

(8) Any sentence imposed pursuant to this section will be imposed consecutive to any other sentence which the defendant is already serving, unless otherwise provided by law.

~~[(b)]~~ (c) Notwithstanding any other provision of law and for the purposes of this section, a prior conviction of a *serious and/or violent* felony shall be defined as any offense defined in subdivision (c) of Section 667.5 or in subdivision (c) of Section 1192.7: *as amended in this act.*

~~[(1) Any offense defined in subdivision (c) of Section 667.5 as a violent felony or any offense defined in subdivision (c) of Section 1192.7 as a serious felony in this state.]~~

The determination of whether a prior conviction is a prior *serious and/or violent* felony conviction for purposes of this section shall be made upon the date of that prior conviction and is not affected by the sentence imposed unless the sentence automatically, upon the initial sentencing, converts the felony to a misdemeanor. None of the following dispositions shall affect the determination that a prior conviction is a prior *serious and/or violent* felony for purposes of this section:

(A) The suspension of imposition of judgment or sentence.

(B) The stay of execution of sentence.

(C) The commitment to the State Department of Health Services as a mentally disordered sex offender following a conviction of a felony.

(D) The commitment to the California Rehabilitation Center or any other facility whose function is rehabilitative diversion from the state prison.

~~[(2)]~~ (3) A conviction in another jurisdiction for an offense that, if committed in California, is punishable by imprisonment in the state prison. A prior conviction of a particular *serious and/or violent* felony shall include a conviction in another jurisdiction for an offense that includes all of the elements of the particular *serious and/or violent* felony as defined in *this proposition and that were brought and tried separately.*

~~[(3)]~~ (4) A prior juvenile adjudication shall constitute a prior *serious and/or violent* felony conviction for purposes of sentence enhancement if *all of the following are true:*

(A) The juvenile was sixteen years of age or older at the time he or she committed the prior offense ~~[, and].~~

(B) The prior offense is ~~[(1)]~~ described in paragraph (1) or (2) as a serious and/or violent felony as amended in this proposition, or is one of the following offense subdivision (b) of Section 707 of the Welfare and Institutions Code as amended by this act ~~[, or (ii) listed in this subdivision as a felony, and].~~

(C) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law ~~[, and].~~

(D) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code.