

~~f(e)~~ (d) For purposes of this section, and in addition to any other enhancements or punishment provisions which may apply, the following shall apply where a defendant has a prior *serious and/or violent* felony conviction:

(1) If a defendant has one prior *serious and/or violent* felony conviction that has been pled, and proved, the determinate term or minimum term for an indeterminate term shall be twice the term otherwise provided as punishment for the current *serious and/or violent* felony conviction.

(2) (A) If a defendant has *been convicted of a serious felony, as defined in 1192.7 as amended in this act, or a violent felony, as defined in 667.5 as amended in this act*, and has two or more prior *serious and/or violent* felony convictions as defined in 667.5, 1192.7 or *Health and welfare code 707 as amended by this act* ~~subdivision~~ that have been pled, *and proved and that were brought and tried separately* the term for the current *serious and/or violent* felony conviction shall be an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the ~~f(greater)~~ *greatest of the following*:

(i) ~~f(three)~~ *Three* times the term otherwise provided as punishment for each current *serious and/or violent* felony conviction subsequent to the two or more prior *serious and/or violent* felony convictions ~~f-or)~~.

(ii) Imprisonment in the state prison for 25 years.

(iii) The term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046.

(B) The indeterminate term described in subparagraph (A) of paragraph (2) of this subdivision shall be served consecutive to any other term of imprisonment for which a consecutive term may be imposed by law. Any other term imposed subsequent to any indeterminate term described in subparagraph (A) of paragraph (2) of this subdivision shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

~~f(d)~~ (e) (1) Notwithstanding any other provision of law, this section shall be applied in every case in which a defendant has a prior *serious and/or violent* felony conviction as ~~defined~~ *amended* in this ~~section~~ *act*. The prosecuting attorney shall plead and prove each prior *serious and/or violent* felony conviction except as provided in paragraph (2).

(2) The prosecuting attorney may move to dismiss or strike a prior felony conviction allegation in the furtherance of justice pursuant to Section 1385, or if there is insufficient evidence to prove the prior conviction. If upon the satisfaction of the court that there is insufficient evidence to prove the prior felony conviction, the court may dismiss or strike the allegation.

~~f(e)~~ (f) Prior felony convictions shall not be used in plea bargaining, as defined in subdivision (b) of Section 1192.7. The prosecution shall plead and prove all known prior felony convictions and shall not enter into any agreement to strike or seek the dismissal of any prior felony conviction allegation except as provided in paragraph (2) of subdivision (d).

(g) *All references to existing statutes in subdivisions (b) to (f), inclusive are to statutes as amended by this act.*

(h) *If any provision of subdivisions (a) to (g), inclusive or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of those subdivisions which can be given effect without the invalid provision or application, and to this end the provisions of those subdivisions are severable.*

SECTION 9 AMENDMENTS TO 1192.7 OF THE PENAL CODE

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

1192.7. (a) Plea bargaining in any case in which the indictment or information charges any serious felony, any felony in which it is alleged that a firearm was personally used by the defendant, or any offense of driving while under the influence of alcohol, drugs, narcotics, or any other intoxicating substance, or any combination thereof, is prohibited, unless there is insufficient evidence to prove the people's case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence.

(b) As used in this section "plea bargaining" means any bargaining, negotiation, or discussion between a criminal defendant, or his or her counsel, and a prosecuting attorney or judge, whereby the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant.

(c) As used in this section, "serious felony" means any of the following:

- (1) Murder or voluntary manslaughter;
- (2) Mayhem;
- (3) rape;
- (4) sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person;
- (5) oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person;
- (6) lewd or lascivious act on a child under the age of 14 years;
- (7) any felony *which on the first offense is* punishable by death or imprisonment in the state prison for life;
- (8) any felony in which the defendant *specifically intends to personally inflict* great bodily injury on any person, other than an accomplice, *and in which the defendant acts to personally inflict great bodily injury on any person other than an accomplice* or any felony in which the defendant personally uses a firearm;
- (9) attempted murder;
- (10) assault with intent to commit rape or robbery;
- (11) assault with a deadly weapon or instrument on a peace officer;
- (12) assault by a life prisoner on a non inmate;
- (13) assault with a deadly weapon by an inmate;
- (14) arson; *as provided in subdivision (a) or (b) of Section 451 of the Penal Code,*
- (15) exploding a destructive device or any explosive with intent to injure
- (16) exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem;
- (17) exploding a destructive device or any explosive with intent to murder;
- (18) any burglary of the first degree; *as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.*
- (19) Armed robbery or bank robbery;
- (20) kidnapping;
- (21) holding of a hostage by a person confined in a state prison;
- (22) attempt to commit a felony punishable by death or imprisonment in the state prison for life;