

New Laws for 2020

**The most important
new statutes, rules, and forms
for
California Criminal Law**

Selected and edited by

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Guide to this Material

Some new statutes fit under two or more different categories, but I have included them under only one. I have included many cross references.

This treatise does not include all new laws, rules and forms affecting California criminal law, only the ones I think are most important for practitioners.

A complete list of new statutes is at California Legislative Information, Publications, “Bills Enacted Report – 2019.” Nearly complete compilations of new criminal statutes, with brief explanations, are the “Senate Committee on Public Safety 2019 Bill Summary,” and the “Assembly Committee on Public Safety 2019 Legislative Summary.” Complete new Rules and Forms by the Judicial Council are at the California Courts web site, menu item “Forms and Rules.” All 4 are on the web.

This treatise is for information purposes only and is not legal advice.

New statutory text is in this font; sometimes with **underlines**, ***italics***, and **SMALL CAPS**. Existing statutory text is in this font. ~~Deleted statutory text is in this font.~~

Abbreviations:

AB = Assembly Bill

SB = Senate Bill

Stats. = Statutes and Amendments to the Codes (Published annually)

BP = Business and Professions Code

CCP = Code of Civil Procedure

EC = Evidence Code

FC = Family Code

GC = Government Code

HS = Health and Safety Code

LC = Labor Code

PC = Penal Code

VC = Vehicle Code

WI = Welfare and Inst. Code

D, or Def. = Defendant, or the Defense

P = People, or Prosecution

V = the Victim. M = Minor DOJ = California Department of Justice

CDCR = California Department of Corrections and Rehabilitation

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Highlights and Lowlights

A pilot project authorized for remote court reporting	p. 16
1-year prison prior enhancement limited to sexually violent offenses.	p. 32
<i>Pitchess</i> motions: Scope expanded; time of advance notice reduced	p. 33
Gun violence restraining orders expanded in several new laws.	pp.. 37-41
U-Visa and T-Visa explained; time reduced for agencies to certify	p, 43
Jury service expanded to include most ex-felons.	p. 45
Div. of Juvenile Justice abolished in CDCR and re-established in the Health and Human Services Agency as the Department of Youth and Community Restoration.”	p. 46
Drug offender registration repealed.	p. 63
DOJ has a form to request witness’s criminal records, per PC 11105(b)(9)	p. 65
Continuance of SVP trials require an elaborate procedure	p. 71
Statute of Limitations for PC 273.5 increased from 3 to 5 years.	p. 71
Subpoenas can be by email (civilians); acknowledgment required.	p. 73
Wiretapping authorization sunset date extended from Jan. 1, 2020 to Jan. 1, 2025. (The Wiretap laws start at PC 629.50.)	p. 79

Early Warnings: Laws with Delayed Operative Dates

Automatic access-restriction to some post Jan. 2021 criminal records.	p. 22
3-tiered sex offender registration (PC 290) operative on January 1, 2021.	p. 64.

Reminders: Prior Years’ Laws Operative This Year or After

Regulations required for photo- and live lineups	p. 55
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Grammatical Note

Many new bills use, or substitute, “their,” “them,” or “the person., instead of “his or her.”
Some bills use or update terms” like “mental health disorder,” not “mental disorder.”

Table of Contents

Guide to this Material 2

Highlights and Lowlights 3

Table of Contents..... 4

Arrests and Detentions 11

Limited immunity from arrest when reporting certain crimes..... 11

Background Checks..... 12

Bail, and Pretrial Assessment..... 12

Validation of pretrial release risk assessment tools, and reports on them, required.
..... 12

Business and Professional Licenses and Discipline 13

Penalties for some violations of the Private Investigator Act increased to misdemeanors 13

Vocational, Business, and Professional licensing boards’ authority to take disciplinary action against applicants or licensees due to criminal records is limited. 14

Child Abuse and Neglect..... 15

Controlled Substances, including Cannabis 15

DUI- cannabis is now separately reported on court dispositions going to DOJ. 15

Courts 16

<i>A pilot project authorized in Santa Clara County on remote court reporting</i>	16
<i>“California Court Interpreter Credential Review Procedures.”</i>	17
<u>Crimes</u>	18
<i>Unlawful access to vehicle computer systems</i>	18
<i>Interference with the Census)</i>	18
<i>Grand theft of agricultural equipment</i>	19
<i>Drones and electronic devices added to the peeping-device list</i>	20
<i>Posse Comitatus repealed</i>	20
<i>Guide dogs, injury or death: scope of crime, and required restitution, expanded.</i> .	21
<i>Enticing a minor into prostitution, modernized and expanded</i>	21
<u>Criminal Records; Relief From</u>	22
<i>Automatic relief from certain marijuana convictions</i>	22
<i>Automatic withholding from disclosure of certain arrest and conviction records.”</i>	23
<u>Discovery and Investigation</u>	27
<i>Postconviction discovery rights for certain sentences of 15 years or more expanded.</i>	27
<u>Diversion</u>	29

<i>Courts can have a diversion program for caregivers of children.</i>	29
<u>Domestic Violence</u>	31
<u>Enhancements.</u>	31
<i>5 yr. GBI enhancement for certain rapes extended to additional spousal rapes. ...</i>	31
<i>1-year prison priors limited to sexually violent offenses.</i>	32
<u>Evidence</u>	32
<i>Restriction on evidence in certain sex crimes.</i>	32
<i>Pitchess motions: notice time reduced; scope expanded.....</i>	33
<i>Human trafficking caseworker victim privilege expanded. AB 1735 (Stats. Ch. 197)</i>	34
<u>Firearms</u>	34
<i>Out of State TROs, Injunctions, and Protective Orders banning guns valid here..</i>	35
<i>Criminal storage, and transfers, of firearms.</i>	35
<i>Changes to exemptions to the rule that gun transfers must go through licensed dealers; infrequent transfers; gun buybacks; charitable auctions and raffles.</i>	36
<u>Gun Violence Restraining Orders (GVROs)</u>	37
<i>Brief discussion of GVROs: 4 new laws and many new forms increase importance.</i>	37

<i>Duration of GVROs issued after notice and hearing extended from 1 up to 5 years.</i>	38
<i>People who can apply for GVROs increased.</i>	39
<i>Written law enforcement policies required on GVROs.</i>	40
<i>The Subject of a GVRO petition can relinquish guns and not contest, by a form.</i>	41
<u>Forms: See “Rules of Court and Forms.”</u>	42
<u>Immigration and Criminal Law</u>	42
<i>Restriction on CLETS for immigration enforcement.</i>	42
<i>Quicker times for law enforcement, etc., to certify V’s for U-Visas and T-Visas.</i>	42
<u>Jail</u>	45
<u>Jury</u>	45
<i>Most ex-felons are now eligible for jury service.</i>	45
<u>Juvenile Justice</u>	45
<i>Div. of Juvenile Justice in CDCR abolished and replaced within the Health and Human Services Agency as the Department of Youth and Community Restoration.”</i>	46
<i>Transfer of minors back from adult court in certain situations; procedures.</i>	47
<u>Law Enforcement Officers</u>	48
<i>Deadly force: Standards for Use Made Stricter</i>	48

<i>Law enforcement cannot (for 3 yrs.) use biometric surveillance, like facial recognition</i>	51
<i>Use of force policies, available to the public, required, and can be used in court.</i> ..	53
<i>Regulations required for photo- and live lineups</i>	55
<u>Mental Health</u>	55
<i>Confidentiality of reports of mental incompetence to stand trial</i>	55
<i>Rule of court for PC 1000.36 diversion for D’s incompetent to stand trial</i>	56
<i>“Postrial hearings on competence” for when D’s attorney or jail medical or mental health provider, says D is restored.</i>	58
<u>Peace Officers</u>	58
<u>Plea Bargains</u>	59
<i>Benefits of later enactments cannot be waived</i>	59
<u>Prisons and Jails</u>	60
<i>Jails and Prisons can no longer charge for inmate-initiated medical visits, or for durable medical equipment or medical supplies</i>	60
<i>Private prisons phased out, with limited service-provider exceptions.</i>	61
<u>Probation</u>	62
<u>Registration as a Drug, or Sex, Offender</u>	63
<i>Registration as a Drug Offender Repealed.</i>	63

<i>3-tiered PC 290 (sex offender) registration becomes operative Jan. 1, 2021.</i>	63
<u>Restitution</u>	64
<i>D can be ordered to pay medical exams of child sexual abuse victims.</i>	64
<u>Rules of Court and Forms</u>	64
<i>DOJ now has a form to get witness criminal records per PC 11105, subd. (b)(9).</i> ..	64
<i>Gun Violence Restraining Orders (GVRs) Forms start “EPO” or “GV”</i>	65
<i>Rule 8.72. “Responsibilities of court and electronic filer” rewritten and expanded</i>	66
<i>Rule 8.74 rewritten and now covers the format of electronic documents.</i>	66
<i>New Rule 8.483 on appeals from civil commitments.</i>	68
<u>Search and Seizure</u>	69
<i>Search Warrants for Vehicle Recording Devices</i>	69
<u>Sentences, Fines, and Alternatives</u>	69
<i>Infractions: Community Service instead of Fines; Location expanded</i>	70
<u>Sexually Violent Predators</u>	70
<i>Complex rules to continue the trial</i>	70
<u>Statutes of Limitations</u>	71
<i>Limitations Period extended from 3 years to 5 for all PC 273.5s</i>	71

<u>Subpoena</u>	72
<i>Email service enforceable by contempt if acknowledged.</i>	72
<u>Supervision: Probation, Parole, Mandatory Supervision and PRCS.</u>	73
<i>Flash incarceration sunset date extended. AB 597 Stats. 2019 Ch. 44.</i>	73
<i>P must give certain Vs notice before the Court ends probation early; Restitution .</i> 73	
<i>180-day mandatory minimum for probation in certain drug cases now permissive.</i>	74
<i>Supervision can't be revoked for failure to pay fines, fees, or assessments unless the court determines that D willfully to pay and has the ability to pay.</i>	74
<i>Law enforcement referral of supervised Ds to transitional services.</i>	75
<u>Traffic and Pedestrians</u>	75
<i>Suspension of calif. drivers' licenses for certain offenses deleted.</i>	75
<i>Detained Juveniles Must Get Opportunities for Online Postsecondary Education.</i>	76
<u>Wiretaps and Electronic Communications</u>	77
<i>Wiretapping authorization sunset extended from Jan. 1, 2020 to Jan. 1, 2025.</i>	77
<i>Authorization to Disclose Results of Wiretaps Expanded.</i>	78
<u>Brief Mention</u>	79

Arrests and Detentions

Limited immunity from arrest when reporting certain crimes.

SB 233 (Stats. 2019, Ch. 141.)

Adds PC 647.3

(For another aspect of this bill, see “Evidence”)

From the “Legislative Counsel’s Digest”:

This bill ... prohibit[s] the arrest of a person for a misdemeanor violation of [most misdemeanor drug laws] or specified sex work crimes, if that person is reporting that they are a victim of, or a witness to, specified crimes.

The bill ... also state[s] that possession of condoms in any amount does not provide a basis for probable cause for arrest for specified sex work crimes.

New PC 647.3:

(a) A person who reports being a victim of, or a witness to [a listed crime¹] shall not be arrested for any of the following offenses if that offense is related to the crime [reported] or if the person was engaged in that offense at or around the time that the person was the victim of or witness to the crime [reported]:

[The crimes for which the person reporting cannot be arrest are:]

(1) A misdemeanor [drug offense in HS 11000 et seq.].

(2) A violation of [PC 372 (maintaining a nuisance)], [PC] 647, subds. (a) or (b), or [PC 653.22, loitering for prostitution] if the offense is related to an act of prostitution.

¹ The listed crimes are “**a serious felony ..., [PC 192.7, subd. (c)], an assault ... [PC 245, subd. (a)], domestic violence ... [PC 273.5], extortion ... [PC 518], human trafficking ... [PC] 236.1, sexual battery ... [PC 243.4, subd. (a)], or stalking ... [PC 646.9]”**

(b) Possession of condoms in any amount [is not] a basis for probable cause for arrest for a violation of [PC] 372, [PC 647, subds. (a) or (b)], or [PC] 653.22, if ... related to ... prostitution.

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Background Checks

See Criminal Records; Relief From for restriction of access to some records.

See Business and Professional Licenses and Discipline.

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Bail, and Pretrial Assessment

Validation of pretrial release risk assessment tools, and reports on them, required.

SB 36 (Stats. 2019, Ch. 589) Adds PC 1320.35.

From “SB 10: Pretrial Release and Detention,” at <https://www.courts.ca.gov/pretrial.htm>

At least 49 counties use a type of pretrial risk assessment tool that provides judges with information about the risk of releasing a defendant before trial

[Note by GB: A referendum on the November 3, 2020 General Election ballot will decide if the repeal and replacement of California’s money-bail system with a new Pretrial Custody Status chapter (enacted in 2018 by SB 4 (Stats. 2018, Ch. 244)), will become operative. That new system, will rely heavily on validated risk assessment tools.]

From the “Legislative Counsel’s Digest” for this bill

Existing law, ... stayed pending ... [a Referendum in Nov. 2020], requires Pre-trial Assessment Services, as defined, to assess a person arrested or detained, as specified, according to a risk assessment instrument, as defined.... Pretrial As-

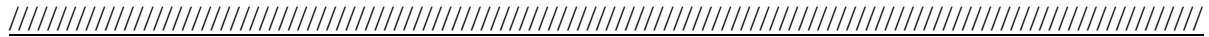
assessment Services [must release ... specified individuals based on that ... assessment, and, if the person is not released, to submit that assessment to the court for ... its pretrial release ... decision.

This bill ... require[s] each pretrial services agency [using] a pretrial risk assessment tool to validate [it] by Jan[.] 1, 2021, [to revalidate it at least] every 3 years, and to make specified information [about it] publicly available.

The bill ... require[s] the Judicial Council to maintain a list of pretrial services agencies that have satisfied those validation [and transparency] requirements.

The bill ... require[s] the Judicial Council, beginning on December 31, 2020, [and annually] thereafter, to publish a report on its ... website with data related to outcomes and potential biases in pretrial release....

The bill ... also require[s] the Judicial Council, on or before July 1, 2022, to provide a report to the courts and the Legislature [with] recommendations to mitigate bias and disparate effect in pretrial decision-making.



Business and Professional Licenses and Discipline

See Criminal Records; Relief From

Penalties for some violations of the Private Investigator Act increased to misdemeanors

SB 385 (Stats. 2019, Ch. 326) Amends BP 7529, 7542, and 7558.1; repeals BP 7520.1

From the Legislative Counsel’s Digest:

The Private Investigator Act [PIA] provides for the licensure and regulation of private investigators by the [Dep’t.] of Consumer Affairs and the Bureau of Security and Investigative Services. That act prohibits a person from engaging in the business of a private investigator, acting or assuming to act as [one], or representing that the person is licensed as [one] unless that person is licensed by the [dep’t.], and [made] a violation ... an infraction....

This bill [now] make[s] a violation ... a misdemeanor.

The [PIA] [had] require[d] ... that a pocket card ... be issued ... to each licensee, [with] the signature of the licensee and ... the Chief of the Bureau of Security and Investigative Services.

This bill ... remove[s] that signature requirement and ..., [starting] Jan.] 1, 2021, instead require[s] an enhanced photo [ID] to be issued

The [PIA] requires a licensee or ... manager who carries a deadly weapon to comply with ... requirements [on] firearms and the powers to arrest that are specified in the Private Security Services Act.

This bill ... exempt[s] a peace officer or a federal ... law enforcement officer from those requirements [if the] officer ... completes a specified course

[N.B. "... [A] county public defender's investigator who is a county employee is exempt from the Private Investigator Act when engaged in his governmental duties. ([BP 7522, subd. (b)].)" 68 Ops.Cal.Atty.Gen. 11 (1985).]

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Vocational, Business, and Professional licensing boards' authority to take disciplinary action against applicants or licensees due to criminal records is limited.

AB 2138 (Stats. 2018, Ch. 995) A 2018 law, most of which is effective July 1, 2020.

Adds BP 480.2, amends BP §§ 7.5, 480, 481, 482, 488, 493, and 11345.2.

From the Legislative Counsel's digest

This bill ... revise[s] and recast[s] [the authority of boards in the Dep't of Consumer Affairs that license and regulate various professions and vocations to suspend or revoke a license, or take disciplinary actions against a licensee because the applicant or licensee has been convicted of a crime.]

[This bill now] authorize[s] a board to ... deny, revoke, or suspend a license [because] the applicant or licensee has been ... convicted of a crime only if [that was] within the [last] 7 years [and] is substantially related to the qualifications, functions, or duties of the business or profession [involved], regardless of whether the applicant was incarcerated..., *or if* the applicant has been convicted

[That Legislative Report also notes dramatic rises in] cannabis-involved accidents including fatalities, in Colorado and Washington after cannabis legalization. GB]



Courts

A pilot project authorized in Santa Clara County on remote court reporting .

AB 253 (Stats. 2019, Ch. 419) Adds GC 69959 and 69959.5.

From the Legislative’s Counsel’s Digest

This bill would prohibit courts from using remote court reporting, as defined, to produce the record of any court proceedings....

[T]he bill ... authorize[s], until Jan[.] 1, 2022, the Santa Clara Superior Court to conduct a pilot project [on] remote court reporting [for] ... [limited civil], child support, misdemeanor, and infraction cases].

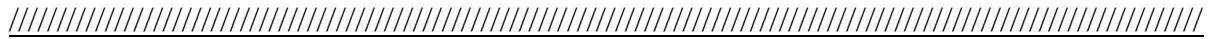
.... [T]he remote court reporting [can] be performed only by official reporters [with] specified qualifications [including] 5 years of courtroom experience.... [This must be done in] court facilities or, after six months, [an offsite location if mutually agreed.] [A] report to the Legislature [is required], and ... the pilot project [must end by] Dec. 31, 2020.

From the Assembly Committee on Judiciary Report of Sept. 11, 2019

[D]ue to budget[s] ... and [the] cost of living, courts are struggling to recruit and retain ... court reporters [especially in] higher-cost coastal counties.

... [Using] live-feed audiovisual technology a court reporter may be able to develop a transcript ... without needing to be physically present in a courtroom. [This] may enable courts to better allocate staff ... and cover ... satellite court-houses.... [But,] these new technologies also carry risks.... [E]fforts to expand [this] must be [done] in a measured and responsible manner.... [T]his bill proposes a modest pilot program [in] Santa Clara County Superior Court....

This measure is sponsored by SEIU California on behalf of their court reporter members in Santa Clara County. This is the first bill [on] remote court reporting ... to win [their] support ... [a]lthough [they have expressed to the committee] several concerns about the scope of the pilot project....



“California Court Interpreter Credential Review Procedures.”

Rewrites California Rule of Court, rule 2.891.

Link to the California Courts’ web page: [Court Interpreters Program \(CIP\)](#).

Link to the 10-page: [California Court Interpreter Credential Review Procedures](#)

From that web page:

“Effective Jan[.] 1, 2020....“The Judicial Council ... [is adopting] the [California Court Interpreter Credential Review Procedures](#)..., [providing] guidelines for filing a complaint alleging professional misconduct or malfeasance regarding a California certified or registered interpreter. The complaint form and more [info.] will be posted closer to the effective date. [Accessed Dec. 16, 2019. GB]

From rewritten Rule 2.891, now titled “Request for court interpreter credential review”:

(c) Procedure

(1) On a request made to the council by any person, court, or other entity for the review of an interpreter’s credential for alleged professional misconduct or malfeasance ..., the council will [follow the] procedures stated in the *California Court Interpreter Credential Review Procedures*.

(2) On a request by the council [about] allegations under investigation under the *California Court Interpreter Credential Review Procedures*, a ... court is required to forward information to the council regarding a complaint or allegation of professional misconduct by a certified or registered court interpreter.

Crimes

Unlawful access to vehicle computer systems.

AB 814 (Stats 2019, Ch. 16)

Amends PC 502

From the Legislative Counsel's Digest

Existing law prohibits tampering with a vehicle or removing ... parts from a vehicle without the [owner's] consent [and] prohibits unlawfully accessing a computer system for specified purposes. A violation ...is a crime.

This bill ... clarif[ies] that ... a computer system includes devices or systems that are located within, connected to, or integrated with, a motor vehicle.

[PC 502 defines and criminalizes unauthorized access to computers, computer systems, and computer data. This bill adds to the definition of "computer system"]

PC 502, as amended by adding text to subd. (b)(5):

(b)(5) "Computer system" [is defined at length]. **A "computer system" includes ... any such device or system that is located within, connected to, or ... integrated with, any motor vehicle...."**

[Note: Crimes are in PC 502, subd. (c); punishments are in subd. (d).]

Interference with the Census

AB 1563 (Stats. 2019, Ch. 831)

Adds PC 529.6 and GC 12172.8

New PC 529.6:

Drones and electronic devices added to the peeping-device list.

AB 1129 (Stats. 2019, Ch. 749)

Amends PC 647

PC 647 makes any act it lists a misdemeanor.

From amended PC 647, subs. (j)(1) and (l).

(j)(1) A person who looks through a hole or opening, into, or otherwise views, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, ~~or~~ mobile phone, **electronic device, or unmanned aircraft system**, the interior of ... any ... area in which the occupant has a reasonable expectation of privacy, [intending] to invade the privacy of a person ... inside....

....

(l) [A greater misdemeanor punishment is provided for second or subsequent violations, or when V is a minor.]

[Note: other changes to PC 647 are also made by this bill.]



Posse Comitatus repealed

SB 192 (Stats. 2019, Ch. 204)

Repeals PC 150 and 1550

From the Legislative Counsel’s Digest:

[The law before this bill made] an able-bodied person 18 years of age or older who neglects or refuses to join the posse comitatus, or power of the county, by neglecting or refusing to aid and assist... in making an arrest, retaking into custody [an escapee] ..., or preventing a breach of the peace or the commission of any [crime], after being lawfully required to do so by a ... peace officer or a judge, guilty of a misdemeanor punishable by a fine of [\$50 to \$1,000].

This bill ... repeal[s] that [and a related] provision....

From the Legislative Counsel's Digest:

[Before this bill it was] an offense to entice an unmarried female under 18 ... and of ... chaste character to a house of prostitution or elsewhere for ... prostitution or illicit carnal connection with a man ... or to procure by fraud[] a female to have illicit carnal connection with a man....

This bill ... recasts those offenses in gender-neutral terms, [and] remove[s] the requirement that the minor be of ... chaste character....

[This once-archaic statute, may now be an alternative to the charge of human trafficking of minors. GB]

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Criminal Records; Relief From

Automatic relief from certain marijuana convictions

AB 1793 (Stats. 2018, Ch. 993) Adds HS 11361.9

A 2018 law, partially effective on Jul. 1, 2019. Partially effective Jul. 1, 2020.

New HS 11361.9.

(a) [By] July 1, 2019, [DOJ should have reviewed] the ... state summary criminal history information database and ... identif[ied] past convictions ... eligible for recall or dismissal of sentence, dismissal and sealing, or redesignation [under PC] 11361.8; and notified [P] of all cases in their [county] ... eligible for [this relief].

(b) [P] [has] until July 1, 2020, to review all cases and determine whether to challenge [this relief].

(c)(1) [P] may challenge [this relief for a D serving a sentence] ... when [D] does not meet the [PC 11361.8] criteria ... or presents an

unreasonable risk to public safety.

(2) [P] may challenge [this relief for] a [D] who has completed [the] sentence ... when [D] does not meet the [PC 11361.8] criteria

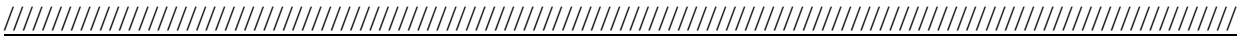
(3) On or before July 1, 2020, [P] shall inform the court and the public defender[] ... when they are challenging [this relief]. [P] shall inform the court when they are not challenging [this relief].

(4) The public defender[] ..., upon receiving notice from [P] shall make a reasonable effort to notify [D].....

(d) If [P] does not challenge the recall or dismissal of sentence, dismissal and sealing, or redesignation by July 1, 2020, the court shall reduce or dismiss the conviction pursuant to [PC] 11361.8.

(e) The court shall notify [DOJ] of [any relief granted,] and [DOJ] shall modify the state summary criminal history ... accordingly.

(f).... (g) ... [Ds] who are currently serving a sentence or who ... petition for [this relief] ...[shall] be prioritized....



Automatic withholding from disclosure of certain arrest and conviction records.”

AB 1076 (Stats. 2019, Ch. 578.)

Adds: PC 851.93 and 1203.425; amends VC 13555, LC. 432.7, BP 480, and others.

Operative Jan. 1, 2021, funds are appropriated (subd. (g) of PC 851.93, and of 1203.425.)

From the Legislative Counsel’s Digest:

This bill ..., commencing Jan[.] 1, 2021, and subject to an appropriation ..., require[s] DOJ, ... monthly ..., to review the records in the statewide criminal justice databases and to identify persons who are eligible for ... having their arrest ..., or ... conviction records, withheld from disclosure, as specified.

The bill ... require[s] [DOJ] to grant relief ..., without requiring a petition....

.... [DOJ must], ... monthly ... [notify] the superior court ... of all cases [granted] relief.... The bill ... prohibit[s] the court from disclosing information concerning an arrest or conviction granted relief, with exceptions.

The bill ... authorize[s] [P] or probation ..., no later than 90 ... days before ... eligibility ..., to file a petition [prohibiting DOJ] from granting [this] relief.... [But D] would [still] be eligible ... through other existing procedures....

851.93 [Arrests] [Underlines and Capitalization added]

(a)(1) [Monthly, DOJ] shall review ... the statewide criminal justice databases, and ... identify [eligible] persons....

(2) D is eligible if the arrest was on or after Jan. 1, 2021 and any of the following: [(A) & (B)] It was for a misd. and the charge was dismissed; *or* [criminal proceedings weren't started, and a year passed; *or* [D] was acquitted...; *or* (C) It was for an PC 1170, subd. (h) crime, criminal proceedings weren't started, and 3 years have passed, *or* [D] was acquitted.... *or* (D) The person completed ... a diversion program.]

(b) (1) [DOJ] shall grant relief ... without requiring a ... motion ... if the ... information is ... in [DOJ's] electronic records. (2) [State] summary criminal history info[.] [and all statewide criminal databases with the record] [must include the relief granted]. (3) Except as ... in subd[.] (d), [the] arrest ... is deemed not to have occurred, [the] person ... is released from any penalties and disabilities... and may [so-answer] any question

(c) [Monthly, DOJ shall inform the superior court of all cases for which a complaint was filed and for which this relief was granted. Starting Feb. 1, 2021, except [as in] subd. (d), **THE COURT SHALL NOT DISCLOSE INFORMATION [ABOUT THAT] ARREST ... TO ANY PERSON OR ENTITY ... EXCEPT TO [D] OR A CRIMINAL JUSTICE AGENCY....**

(d) [Despite this relief: (1) The person must disclose an arrest in response to a question in any application to be a peace officer. (2) A criminal justice agency can access and use them. (3) P can prosecute the case, within the statute of limitations. (4) Relief ... does not let D own, etc., a gun. (5) Relief does not let D hold public office. (6) Listed HS and other §§ can still be used to access and act based on criminal history.]

(e) [M]otions, or orders for ... relief ... [are still] authorized by [listed PC §§]. (f).... (g)

1203.425. [Convictions] [Underlines and capitals added.]

(a)(1) [Each month], [DOJ] shall review the ... statewide criminal justice databases, [and] the Supervised Release File, [and] ... identify persons ... [meeting] the criteria [in (a)(2)] ... for automatic conviction record relief.

(2) [Ds are] eligible for ... relief ... if they meet ... the following ...:

(A) [D] is not required to register [under PC 290 et seq.]

(B) [D] [is not on] local, state, or federal supervision....

(C) [D isn't] serving a sentence ... and [has no pending charges.

(D) Except as ... provided in clause (iii) of subparagraph (E) [Sic: there is no (E)(iii)], the conviction [didn't] result[] in [prison]....

(E) The conviction [was] on or after January 1, 2021, and...:

(i) [D] [got] probation and ... completed ... without revocation. [or] (ii) [D] was convicted of an infraction or misd[.], [wasn't] granted probation, ... completed [it], and [a] year has elapsed....

(b)(1) Except as ... in subd[.] (h), [DOJ] shall grant ... dismissal of a conviction, to a [D in subd. (a)], without requiring a ... motion ... if the ... information is ... in [DOJ's] electronic records.

(2) The state summary criminal history information [and all statewide criminal databases with that record] shall ...[note that this relief was granted].

(3) Except as ... provided in subd[.] (d) and in [VC] 13555 ..., a person granted ... relief ... shall be released from all penalties and disabilities resulting from the offense....

(c) [Each month, DOJ] shall ... [inform] the superior court ... of all cases for which a complaint was filed ... for which relief was granted Commencing on February 1, 2021, for any record retained by the court ..., except as provided in subd[.] (d), **THE COURT SHALL NOT DISCLOSE INFORMATION CONCERNING A CONVICTION GRANTED RELIEF PURSUANT TO THIS SECTION OR SECTION 1203.4, 1203.4A, 1203.41. OR 1203.42, TO ANY PERSON OR ENTITY, IN ANY FORMAT, EXCEPT TO [D] OR A CRIMINAL JUSTICE AGENCY....**

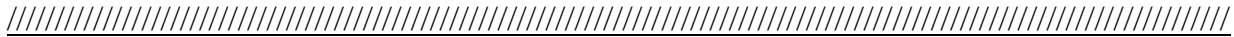
(d) Relief ... is subject to the following conditions:

(1) & (2) [D must disclose this ... in an application to be a peace officer ... for public office, or to contract with the Lottery.] **(3)** [A criminal justice agency can access and use this.] **(4)** ... [T]he [court still has] jurisdiction ... over ... motion[s] to ... [provide] postconviction relief or permit a collateral attack[s].... **(5)** Relief ... does not affect ... authorization to own, [etc.] any firearm, or ... [to be] convict[ed] under [PC] 29800 et seq]. **(6)** ... [P]rohibition[s] from holding public office [still apply]. **(7)** [Several listed HS §§ still provide authority to take adverse action based on, the records. **(8)** Relief does not make [D] eligible to provide in-home supportive services.] **(9)** In any subsequent prosecution of [D], the prior conviction may be pleaded and proved.]

(e) [Motions and orders for relief]... [are still] authorized by any ... law, including, [inter alia], [PC] 1203.4 and 1204.4a. **(f)** **(g)**....

(h) [(1) P or probation may, up to 90 days before D’s eligibility, file a petition to prohibit relief. (2) & (3) The court shall hold a hearing within 45 days, which can be upon declarations, police reports, criminal history, or other reliable evidence. (4) P or probation must show that granting relief poses a substantial public safety threat. (5) If that burden is met, D must show that the hardship of no relief outweighs the ... safety threat. (6) & (7) If the court denies automatic relief, D can still be eligible for relief pursuant to [PC] 1203.4 or 1203.4a....

(i)[The sentencing court] shall advise [D] [of] this section and of [any] right, ...to petition for a cert[.] of rehab[.] and pardon.



Discovery and Investigation

See **Evidence** for *Pitchess* Motions: Advance Notice Time Reduced; Scope Expanded

See **Rules of Courts and Forms for getting witness rap sheets.**

See **Brief Mention for P’s access to certain sealed records for Brady reasons.**

Postconviction discovery rights for certain sentences of 15 years or more expanded.

SB 651 (Stats. 2019, Ch. 483)

Amends PC 1054.9

From the Legislative Counsel’s Digest

[Before this bill, beginning Jan. 1,2019,] the court, [after a] conviction of a serious or violent felony resulting in a sentence of 15 years or more, [was required] to order that [D] be provided ... discovery materials upon [filing or preparing to file] a postconviction [petition for a] writ of habeas corpus or a motion to vacate judgment and [after] ... efforts to obtain discovery materials from trial counsel ... were unsuccessful [with exceptions and qualifications]

This bill ... instead make[s] those provisions also apply to a case in which a defendant has ever been convicted of those specified felonies.

From the Assembly Committee on Public Safety, Report for June 25, 2019

... [T]his bill:....(2) [Continues the requirement that after Jan. 1, 2019, trial counsel in such cases must retain a copy of the files for the term of that client’s imprisonment.]

PC 1054.9 as amended:

- (a) In a case ~~involving a conviction~~ **in which a defendant is or has ever been convicted** of a serious ... or a violent felony resulting in a sentence of 15 years or more, upon the prosecution of a postconviction writ of habeas corpus or a motion to vacate a judgment, or in preparation to file [those], and on a showing that ... efforts to obtain discovery materials from trial counsel were ... unsuccessful, the court shall, except as provided in subds.] (b) or (d), order that [D] be provided ... the materials described in subdivision (c).
- (b) [Special provisions for successive discovery requests.]
- (c) “[D]iscovery materials” means materials in the possession of [P] and law enforcement ... to which [D] would have been entitled at time of trial.
- (d) [Provisions for access to physical evidence.] (e) [D bears the costs.]
- (f) This ... does not require ... retention of any discovery materials not otherwise required by law or court order.
- (g) In ... a conviction for a serious or a violent felony [with] a sentence of 15 years or more, trial counsel shall retain a copy of a former client’s files for the term of ~~his or her~~ **that client’s** imprisonment. An electronic copy is [okay]....
- (j) ~~The changes made to this section by the act that added this subdivision are intended to only apply prospectively~~ **Subdivision (g) only applies prospectively, commencing January 1, 2019.**



Diversion

Courts can have a diversion program for caregivers of children.

SB 394 (Stats. 2019, Ch. 593)

Adds PC 1001.83.

New PC 1001.83.

(a) [The superior ... and juvenile courts,] with [P] and the public defender or the contracted criminal defense office ..., MAY agree ... to ... conduct a pretrial diversion program for primary caregivers ... [with] proceedings ... suspended without a plea of guilty for ... 6 [to] 24 months....

(b) [This] may include, [inter alia], ...: (1) Parenting classes. (2) Family and individual counseling. (3) Mental health [services]. (4) Family ... services. (5) Drug and alcohol treatment. (6) Domestic violence education and prevention. (7) Physical and sexual abuse counseling. (8) Anger management. (9) Vocational and educational services. (10) Job training and placement. (11) Affordable and safe housing [help]. (12) Financial literacy courses.

(c) [D] may be referred to ... existing diversion programs and county outpatient services. Before approving a ... program, the court shall consider the request[s] [of D and of P], [D's] needs ... and [of] the ... child or children, and [community] interests A referral may ... to a county agency, [or a] collaborative court

(d) On an accusatory pleading [charging] a misdemeanor or felony ..., the court may, after considering the positions of [D] and [P], grant pretrial diversion to [D] ... if [D] meets ... the following....:

(1) [D] is a custodial parent or legal guardian of a ... child ... [living] in the ... household...[,] provides care or financial support for

that ... child ... alone or with ... other household members, and [D's] absence ... would be detrimental to the child.

(2) [& 3] [D] [waives] ... a speedy trial and a speedy preliminary hearing.... [and] ... agrees to comply with the ... program.

(4) ... [D] will not pose an unreasonable risk ... to public safety, as [per] [PC] 1170.18, or to the ... child.... The court may consider [listed factors], and any other [appropriate] factors

(5) [D] is not being [diverted] ... for any serious ... or violent felony [in PC 1192.7, 1192.8, or 667.5, subd. (c)].

(6) [D] is not being [diverted] ... for a crime alleged[ly] ... committed against a [V] for whom [D] is the primary caregiver.

(e) The [diversion services provider] shall provide ... reports....

(f)(1) If it appears to [P], the court, pretrial services, or ... probation ... that [D] is performing unsatisfactorily..., or if [D] is, ... convicted of a felony or any offense [showing] a propensity for violence, [P] or ... probation ... may [move] to reinstate criminal proceedings. The court may ... reinstate [the] proceedings on its own.... (2) After notice to [D], the court shall hold a hearing [on this]. (3) If the court finds that [D] is not performing satisfactorily ..., or ... that [D] has been convicted of a crime ... in para[.] (1), the court may ... order the resumption of criminal proceedings.

(g) If [D] has performed satisfactorily, at the end ..., the court shall dismiss the ... charges.... If the court [does], the clerk... shall file [that] with [DOJ].... [T]HE ARREST ... [IS THEN] DEEMED NEVER TO HAVE OCCURRED, AND THE COURT SHALL [RESTRICT] ACCESS TO THE [ARREST] RECORD [D] may [then state on] any question [about D's] prior ... record that they were not arrested or diverted for [this], except [as specified].

(h) [An] arrest [record] resulting in successful ... diversion, or any record ... [from D’s] application for or participation in [that], shall not, without [D’s] consent, be used in any way that could result in the denial of any employment, benefit, license, or certificate.

(i) ... [R]egardless of [D’s] completion ...: (1) The arrest ... may be disclosed by [DOJ for a] peace officer application ... and, ... [D must] disclose [it upon] any [such] question.... (2) ... [A] criminal justice agency [can still] access and use [it] as [per in PC] 851.92.



Domestic Violence

See “Statute of Limitations”

See “Gun Violence Restraining Orders.”

Enhancements.

5 yr. GBI enhancement for certain rapes extended to additional spousal rapes.

SB-459 (Stats. 2019, Ch. 646)

Amends PC 12022.8

From the Legislative Counsel’s Digest:

.... Existing law imposes a 5-year enhancement on ... [a D] who inflicts [GBI] during ... a rape ... committed by ... force, violence, duress, menace, or fear of immediate and unlawful bodily injury on [V] or another, or if [this was] against [V’s] will by threatening to retaliate in the future against [V] or another.... The 5-year enhancement also applies if [V] was not [D]’s spouse and was prevented from resisting by any intoxicating[,] anesthetic[,] or [] controlled substance.

This bill [makes] the 5-year ... enhancement for [GBI] ... applicable to rape committed against ... [D]’s spouse who was prevented from resisting by any intoxicating[,] anesthetic[,] or [] controlled substance.

1-year prison priors limited to sexually violent offenses.

SB 136 (Stats. 2019, Ch. 590)

Amends PC 667.5, subdivision (b)

PC 667.5, subd. (b) is amended as follows:

... [W]here the new offense is any felony for which a prison sentence or a [PC 1170, subd. (h) county jail] sentence ... is imposed ..., in addition and consecutive to any other sentence ..., the court shall impose a one-year term for each prior separate prison term ~~or county jail term imposed under subdivision (h) of Section 1170 or when sentence is not suspended for any felony;~~ **for a sexually violent offense as defined in [WI 6600, subd. (b)],** provided that no additional term shall be imposed under this subdivision for any prison term ~~or county jail term imposed under subdivision (h) of or when sentence is not suspended-~~**served** prior to a period of five years in which [D] remained free of both the commission of an offense [resulting] in a felony conviction, and prison custody or ... a term of jail custody ... under [PC 1170, subd. (h)] ... or [an imposed] felony sentence...

Evidence

Restriction on evidence in certain sex crimes.

SB 233 (Stats. 2019, Ch. 141)

Amends EC 782.1 and 1162.

For another aspect of this bill, see “Arrests and Detentions”

Amended EC 782.1:

The possession of a condom is not admissible as evidence in the prosecution of a violation of [PC §] 372 [“maintains ... any public nuisance....”] [PC §] 647[, subd. (a) or (b)], or [PC §] 653.22 [loiter with intent to prostitution] if the offense is related to prostitution.

Out of State TROs, Injunctions, and Protective Orders banning guns valid here.

AB 164 (Stats. 2019, Ch. 726)

Amends PC 29825.

PC 29825 as amended:

(a) ~~Every~~ **A** person who purchases or receives, or attempts to [do so], a firearm knowing that the person is prohibited from [this] **in any jurisdiction** by a temporary restraining order [TRO] or injunction [a protective order in several listed §§ of CCP, FC, PC, or WI] ... **or by a valid order issued by an out-of-state jurisdiction that is similar or equivalent to a [TRO], injunction, or protective order specified [here], that includes a prohibition from owning or possessing a firearm,** is guilty of a [crime], ~~which shall be~~ punishable [as a state prison wobbler, a fine up to \$1,000, or both].

(b) ~~Every~~ **A** person who owns or possesses a firearm knowing that the person is prohibited from doing so **in any jurisdiction** by a [TRO] or injunction [a protective order, as listed in several §§ of CCP, FC, PC, or WI] ... **or by a valid order issued by an out-of-state jurisdiction that is ... equivalent to a [TRO], injunction, or protective order specified in this subdivision, that includes a prohibition from owning or possessing a firearm,** is guilty of a public offense, ~~which shall be~~ punishable by [a state prison wobbler or a fine up to \$1,000, or both].

(c) If probation is granted ..., [it must be] consistent with [PC] 1203.097.



Criminal storage, and transfers, of firearms.

SB 172 (Stats. 2019, Ch. 840)

Adds [three Articles to HS, starting at HS 1567.90; HS 1568.095; and 1569.280, respectively]; Adds PC 27881, 27882, and 27883; Amends PC 17060, 25100, 25105, 25200, 26835, 29805; and Amends WI 4684.53.

From the Assembly Committee on Public Safety “2019 Legislative Summary”

This bill ... clarif[ies] that **these exemptions also apply to charity raffles.**

This bill ... remove[s] the limitation on the number of [gun] transactions allowed by a **charity auction** and instead require[s] all [guns] sold or ...transferred by **auction or raffle** ... be [given] to a licensed dealer for delivery.

Existing law requires a person manufacturing 100 or more firearms each year in the state to be licensed as a manufacturer.

This bill ... lowers that number to 50 or more.]

Existing law requires a licensed dealer processing the [gun] transfer ... to hold the [gun] for a ... waiting period.... Existing law exempts certain [gun] transactions ... as part of a **charitable auction** ... from this waiting period.

This bill ... repeal[s] the waiting period exemption for charitable auctions.

A violation of [these] provisions ... is a crime.



Gun Violence Restraining Orders (GVROs)

See also “Rules of Court and Forms”

Brief discussion of GVROs: 4 new laws and many new forms increase importance.

GVRO law is PC §§ 18100 to 18205. GVROs can be issued when the subject poses a significant danger of self-harm or harm to another by having [], owning, purchasing, possessing, or receiving a gun, and that a GVRO is needed to prevent this.

The precise type and degree of danger, who can petition for one, and how long it lasts, all depend on whether a temporary, ex parte, or noticed-hearing GVRO is sought.

The penalties for violating GVRO law, either by filing a false petition seeking one, or by violating the terms of a GVRO, are unchanged.

PC 18200:

“... [Filing] a petition for an ex parte [GVRO] [PC 18150 et seq.], or a [GVRO] issued after notice and a hearing [PC 18170 et seq.], knowing the information in the petition to be false or with the intent to harass, is ... a **misdemeanor**.

PC 18205

... [Owning] or possess[ing] a firearm or ammunition with knowledge [of being] prohibited ... by [any GVRO] ... is ... a **misdemeanor** and ... prohibit[s] [D] from having ... custody or control, owning, purchasing, [etc.] or attempting [these] for [5 years], [starting upon] expiration of the existing [GVRO].

Showings to Issue GVROs, Types, Duration, and Who Can Apply for, GVROs.

Required showings vary with the type of GVRO; factors include evidence, to the required degree, that the subject poses a significant danger of injury to self or other, and that the order is necessary to prevent that.

These new laws increase the duration of GVROs issued after a notice and hearing, and increases the people who can apply for some GVROs.

Outline of the GVRO statutes

Ch. 1 (“General”) of the GVRO statutes are PC 18100-18122.

Ch. 2 (“Temporary Emergency [GVROs]”) are at PC 18125-18165.

Ch. 3 (“Ex Parte [GVROs] are at PC 18150-18165.

Ch. 4 (“[GVRO] Issued After Notice and Hearing”) are at PC 18170-18197.

Ch. 5 (“Offenses”) is PC 18200 and 18205, excerpted above.



Duration of GVROs issued after notice and hearing extended from 1 up to 5 years.

AB 12 (Stats. 2019, Ch. 724). Implementation delayed until September 1, 2020

Amends PC 18109, 18120, 18160, 18170, 18175, 18180, 18190, and 18197.

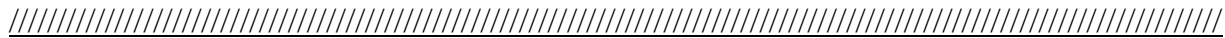
From the Assembly Public Safety Committee’s “2019 Legislative Summary” for AB 12

[Before this bill] if a GVRO [was] issued after the hearing, the order ha[d] a duration of one year, subject to termination by further [court] order ... at a hearing, or renewal by further [court] order.... (PC 18175, subd. (d).)

[This bill] Extends [that] from one year to ... between one and five years and requires the court to consider [several factors in deciding the duration.] [And:]

Entitles the restrained person to request a hearing for termination of the GVRO once yearly during the effective period of the order.

[And] Clarifies that when a GVRO is issued as an ex parte order or ... after notice and hearing and is served by a person other than a law enforcement officer, and if no request is made by [an] officer, the surrender [in a specified manner] shall occur within 24 hours of being served....



People who can apply for GVROs increased.

AB 61 (Stats 2019, Ch. 725) Operative Sept. 1, 2020.

Amends PC 18150, 18170 and 18190.

From the Legislative Counsel’s Digest:

[Under prior law] Petitions for ex parte, one-year, and renewed gun violence restraining orders [could] be made by an immediate family member of the person or by a law enforcement officer.

This bill ... authorize[s] an employer, a coworker who has substantial and regular interactions with the person and approval of their employer, or an employee or teacher of a secondary or postsecondary school, with approval of a school administrator[,] or a school administration staff member with a supervisory role, that the person has attended in the last 6 months[,] to file a petition for an ex parte, one-year, or renewed gun violence restraining order.



Written law enforcement policies required on GVROs.

AB 339 (Stats. 2019, Ch. 727)

Written policies required by Jan. 1, 2021.

Adds PC 18108.

New PC 18108.

(a) Each ... police ... and ... sheriff's [dep't], the ... Highway Patrol, and the Univ[.] of Calif[.] and Calif[.] State University Police [Dep't.] shall, on or before Jan[.] 1, 2021, develop, adopt, and implement written policies and standards [on GVROs].

(b) [These] shall instruct officers to consider [a GVRO] during a domestic disturbance response to any residence ... associated with a [gun] registration or record, [or when] a firearm is present, or ... in which [an] involved part[y] owns or possesses a [gun]....

(c) [These] should also instruct officers to consider the use of a [GVRO] during a contact with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions, if that person owns or possesses a firearm. [They] shall encourage officers [in] situations in which there is reasonable cause to believe that the person poses an immediate and present danger of ... injury to themselves or another ... by having ... a firearm to consider obtaining a mental health evaluation of the person by [an expert] or to detain the person [under WI 5150]....

(d) [They] ... shall include all of the following:

(1) – (3) Standards and procedures for requesting and serving a [temporary emergency, ex parte, [and] noticed-hearing GVRO].

(4) Standards and procedures for [seizing] [guns] and ammunition at the time of issuance of a temporary emergency [GVRO].

(5) Standards and procedures for verifying the removal of [guns and ammo] from the subject of a [GVRO].

(6) Standards and procedures for obtaining and serving a search warrant for firearms and ammunition.

(7) Responsibility of officers to attend [GVRO] hearings.

(8) Standards and procedures [to seek] renewals of ... [GVROs].

(e) ... [These law enforcement agencies] are encouraged, but not required ..., to train officers on [these]....

(f) In developing these ..., law enforcement agencies are encouraged to consult with gun violence prevention experts and mental health professionals.

(g) [These] policies ... shall be made available ...upon request.



The Subject of a GVRO petition can relinquish guns and not contest, by a form.

AB 1494 (Stats. 2019, Ch. 733) Operative Sept. 1, 2020. Amends PC 18115 and 18175.

From the Legislative Counsel’s Digest:

This bill ... authorize[s] the subject of [a GVRO] to file a form ... relinquishing the subject’s [gun] rights and stating that the subject is not contesting the petition. If ... [that form is filed], ... the court [must] issue a [GVRO], and [give] notice ... to all parties.

The bill ... require[s] the clerk ... to enter the relinquishment of firearm rights form directly into the Calif[.] Restraining and Protective Order System....



Forms: See “Rules of Court and Forms.”

See Gun Violence Restraining Orders



Immigration and Criminal Law

Restriction on CLETS for immigration enforcement.

AB 1747 (Stats. 2019, Ch. 789)

Amends GC 15160

One Part effective Jan. 1, 2020, and one part effective July 1, 2021

From “Assembly on Public Safety 2019 Legislative Summary

[This law] limits the use of the state's telecommunications System [CLETS] containing criminal history information for immigration enforcement purposes, as defined, and for purposes of investigating immigration crimes solely because criminal history includes a violation of federal immigration law, as specified.

Specifically, this new law:

Requires, commencing July 1, 2021, that any inquiry submitted through [CLETS] for information other than criminal history information shall include a reason for the initiation of the inquiry.

Prohibits, effective January 1, 2020, ... [CLETS subscribers] from using information [except] criminal history information [from] the system for immigration enforcement purposes, as defined. Clarifies that this ... does not prohibit an agency from sharing information as dictated by federal law.



Quicker times for law enforcement, etc., to certify V's for U-Visas and T-Visas.

AB 917 (Stats. 2019, Ch. 575)

Amends PC 679.10 and 679.11.

Background: What are U Visas and T Visas; and How Are They Obtained? From the Senate Committee on Public Safety report of June 25, 2019.

... [8 U.S.C. § 1011(a)(15)(U).] allows an immigrant who has been a victim of a crime to receive a **U-visa** if ... Homeland Security determines the following:

- 1) The petitioner has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity as described;
- 2) The petitioner, or if ... under 16 years ..., the petitioner's parent, possesses information concerning the criminal activity;
- 3) The petitioner, or if ... under 16 years ..., petitioner's parent, has been [or is likely to be] helpful ... to a Federal, State, or local law enforcement official, ...prosecutor, ...judge, [or] other ... authorities investigating or prosecuting criminal activity...;
- 4) The criminal activity violated the laws of the [U.S.] or occurred in the [U.S.] (including in Indian country and military installations) or the territories and possessions of the [U.S.]; and,
- 5) The criminal activity [involves] the following or any similar activity in violation of Federal, State, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault ...; prostitution; sexual exploitation; stalking; female genital mutilation; being held hostage; ...; [slavery or] slave trade; kidnapping; ... criminal restraint; ... extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; fraud in foreign labor contracting; or attempt, conspiracy, or solicitation [of] any of the above....

[8 U.S.C. § 1101 (a)(15)(T))] allows an immigrant to receive a **T-visa** if ... Homeland Security determines the following:

- 1) The person is or was a victim of a severe form of trafficking in persons (which may include sex or labor trafficking), as defined by federal law;
- 2) The person is in the [U.S.] [or certain other places] or at a U.S. port of entry due to trafficking;
- 3) The person has complied with any reasonable request from a law enforcement agency ... in the investigation or prosecution of human trafficking; and,

4) The person would suffer extreme hardship involving unusual and severe harm if removed from the United States.

[PC] 679.10 (e) says that. [C]ertifying [state and local entities and] agencies, upon the request of an immigrant [V] or [V's] family member, [must] certify [V's] helpfulness ... so that [V] may apply for a **U-visa. (PC] 679.10 (e).**

[PC] 679.10 (f). creates a rebuttable presumption that an immigrant [V] is [has been or is likely to be] helpful ... if [V] has not refused or failed to provide information and assistance reasonably requested by law enforcement.

[PC 679.11, subd. (e)] requires certifying [entities and] agencies, upon the request of an immigrant human-trafficking [V] or [V's] family member, to certify [V's] helpfulness ... so that [V] may apply for a **T-visa.**

[PC 679.11, subd. (f)] creates a rebuttable presumption that an immigrant human-trafficking [V] is [has been or will be] ... if [V] has not refused or failed to provide information and assistance reasonably requested by law enforcement.

From the Assembly Committee on Public Safety 2019 Legislative Report for this Bill

[This bill], reduces the timeline for a certifying entity to process a victim certification for an immigrant [V] [to] obtain[] U-Visas and T-Visas....:

Requires a certifying entity to process victim certification [to] obtain[] a U-Visa or T-Visa within 30 days [rather than 90], unless the non-citizen is in removal proceedings, in which case the certification must be processed in seven days rather than 14] of the first business day following the ... request

Requires the local law enforcement agency with whom the ... applicant has filed a police report to provide a copy of [that report to V], [V's] immigration attorney or representative ... accredited by the US [DOJ] within seven days of the first business day following the day of the request.

Allows [V's] immigration attorney [or another U.S. D.O.J. accredited person, as defined] authorized to represent V in immigration proceedings] to request the necessary certification of [V's] helpfulness [to] obtain[] a U-Visa or a T-Visa.



Jail

See “Prisons and Jails

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Jury

Most ex-felons are now eligible for jury service.

SB 310 (Stats. 2019, Ch. 591)

Amends CCP 203.

Felons are deleted from the list of persons who can’t be jurors: **C.C.P. 203, subd. (a)(5):**

(5) Persons who have been convicted of malfeasance in office ~~or a felony~~, and whose civil rights have not been restored.

Added to the list of persons NOT qualified to be jurors, in **C.C.P. 203, subd. (a)**

(9) Persons while they are incarcerated in any prison or jail.

(10) Persons who have been convicted of a felony and are ... on parole, postrelease community supervision, ... probation, or mandated supervision for the conviction of a felony.

(11) Persons who are ... required to register as a sex offender [under PC] 290 ... based on a felony conviction.

[Comment: SB 310 has no provisions on making sure that ex-felons are summoned. GB]

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Juvenile Justice

See also “Brief Mention”

Div. of Juvenile Justice in CDCR abolished and replaced within the Health and Human Services Agency as the Department of Youth and Community Restoration.”

SB 94 [at its § 20, and many others of its §§] (Stats. 2019, Ch. 25.)

Adds a new Article to GC titled “Dep’t of Youth and Community Restoration” [YCR], §§ 12820 to 12836. Adds and amends many other GC §§. Adds PC 850.53, and 2816. Amends WI 1703, 1710 and many other WI §§.

Transition began last July 1, 2019. The full change is operative July 1, 2020.

From the Legislative Counsel’s Digest [paragraph breaks added GB]

Existing law [until July 1, 2020] establishes the Division of Juvenile Justice [DJJ] within [CDCR] to ... house specified juvenile offenders; and establishes the Calif[.] Health and Human Services Agency [HHS]....

This bill ... establish[es], commencing July 1, 2020, [YCR] in [HHS] and ... abolish[es] [DJJ]....The bill ... vests [YCR] with all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of [DJJ].....

The bill ... require[s] [DJJ], commencing [last] July 1, 2019, [with]with [HHS and CDCR], to [start] the transfer ..., and ... complete[] [it] by July 1, 2020.

The bill ... require[s] [HHS] to convene a committee of the ... Child Welfare Council [for] input and recommendations [on] [YCR’s] policies and programs [for] improving ... outcomes, [and] reducing ... detention, and reducing....

The bill ... require[s] [DJJ] to enter into memo[s] of understanding with [HHS], the Calif[.] Conservation Corps [CCC], the Calif[.] Volunteers, [CDCR], the [Dep’t.] of Forestry and Fire Protection, the ... Inspector General, and any other state [entity] to ensure the initiation or continuation of services with the [YCR].

The bill ... authorize[s] [YCR] to [make] agreements with the Prison Industry Authority and the [Dep’t.] of Forestry and Fire Prevention for ... work programs, rehabilitative services, and workforce development opportunities....

The bill ..., authorize[s] [DJJ and then YCR] to develop and establish a pre-corps transitional training program with the [CCC] to provide training and development to approximate the experience of serving in a conservation corps.

Transfer of minors back from adult court in certain situations; procedures.

AB 1423 (Stats. 2019, Ch. 583)

Adds WI 707.5

New WI 707.5

a) [When a juvenile has been transferred to adult court under WI 707,] upon conviction or entry of a plea, the person may, [in the cases described] ... in subd[.] (b), request the criminal court to return the case to the juvenile court for disposition.

(b) Upon the person's motion ..., the criminal court [can] return the case to juvenile court for disposition in the following ...:

(1) If the person is convicted ... solely of ... misdemeanors, upon ... request..., the case shall be returned to juvenile court, as provided in subd[s.] (d) and (e).

(2) If any ... allegations in the juvenile ... petition ... involved [a WI 707(b)] offense ... and the person is convicted at trial ... only of [non-707(b)] felony offenses ..., upon request by [D], the [court can] return the case to juvenile court ... pursuant to subd[.] (c).

(3) If the allegations in the juvenile ... petition ... involved only [non-707(b) offenses] and [by] a plea agreement the person pleads guilty only to ... misdemeanors, or if any of the allegations in the juvenile ... petition ... involved [a WI 707(b)] offense ..., and [by] a plea agreement the person pleads guilty only to ... misdemeanors, [or non-WI 707(b)] offenses ..., upon agreement ... of the parties, and subject to [court] approval..., the case shall be returned to juvenile court ... [under] subd[.] (c).

(c) In determining whether the case should be returned to juvenile court [under subd. (b)(2)] ..., or ... whether to approve the agreement [under subd. (b)(3)] ..., the court shall make a finding by a preponderance [and ... state the reasons ...] ... that a juvenile disposition is in the interests of justice and the [person's] welfare [T]he court shall consider the transcript and minute order of the transfer hearing, the time that the person has served in custody, the dispositions and services available ... in the juvenile court, and any relevant evidence....

(d) Upon [returning it,] ... the court shall return the entire case ... and the matter shall be calendared within two court days.

(e) The juvenile court shall order ... a social study..., and the case shall proceed to disposition as set forth in [the relevant listed WI §§].... A conviction or guilty plea ... returned to juvenile court shall be considered [a juvenile] adjudication or admission....

(f) The ... criminal court [clerk] shall report the return ... to the probation department, the [arresting] law enforcement agency ...and [DOJ]. The clerk of the criminal court shall ... shall obliterate the person's name from any index ... in the criminal court. The ... juvenile court [clerk] shall maintain the ... records ... until ... the juvenile court ... issue[s] an order [to seal them].



Law Enforcement Officers

See Gun Violence Restraining Orders.

Deadly force: Standards for Use Made Stricter

AB 392 (Stats. 2019, Ch. 170)

Amends PC 196 and 835a.

From the Legislative Counsel’s Digest:

“[Before this bill], a homicide ... by a peace officer [was] justifiable when necessarily committed in arresting a person who has committed a felony and ... is fleeing or resisting ... arrest... [S]uch a homicide [is a] 4th Amendment [seizure] ..., [that must] be reasonable.

This bill ... redefine[s] the circumstances under which a homicide by a peace officer is ... justifiable to include when the officer reasonably believes, based on the totality of the circumstances, that deadly force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another..., or to apprehend a fleeing person for a felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless ... immediately apprehended.

The bill ... prescribe[s] the circumstances under which a peace officer is authorized to use deadly force to effect an arrest, to prevent escape, or to overcome resistance.

From the Governor’s Press Release Upon Signing this Bill:

“The bill enacts one of the strongest use-of-force laws in the country.

PC 196 as amended:

Homicide is justifiable when committed by ~~public~~ **peace** officers ... [**either**]:

- ~~1. (a)~~ In obedience to any [court] judgment....
- ~~2. (b)~~ When ~~necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty; or~~ **the homicide results from a peace officer’s use of force that is in compliance with [PC] 835a.**
- ~~3. When necessarily committed in retaking felons who have been rescued or have escaped, or when necessarily committed in arresting persons charged with felony, and who are fleeing from justice or resisting such arrest.~~

PC 835a is rewritten:

(a) The Legislature finds ... the following:

(1).... (2) ... [The Legislature's] intent [is] that peace officers use deadly force only when necessary in defense of human life. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.

(3).... (4) That the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation....

(5) It is estimated that individuals with disabilities are involved in ... [1/3 to 1/2] of all fatal encounters with law enforcement.

(b) Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use **objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance.**

(c)(1) ... [A] peace officer is justified in using deadly force ... only when the officer reasonably believes, based on the totality of the circumstances, that ... is necessary for either of the following:

(A) To defend against an imminent threat of death or serious bodily injury to the officer or to another person.

(B) To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, a peace officer shall, [first], [try] to identify themselves ... and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of [that].

(2) A peace officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person.

(d) A peace officer who makes or attempts to make an arrest need not retreat or desist from ~~his~~ **their** efforts by reason of the resistance or threatened resistance of the person being arrested; ~~nor shall such officer.~~ **A peace officer shall not** be deemed an aggressor or lose ~~his~~ **the** right to self-defense by the use of **objectively** reasonable force [per subds.] (b) and (c) to effect the arrest or to prevent escape or to overcome resistance. **For the purposes of this subdivision, “retreat” does not mean tactical repositioning or other de-escalation tactics.**

(e) ... [T]he following definitions shall apply:

(1) “Deadly force” means any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm.

(2) A threat of death or serious bodily injury is “imminent” when, [by] the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the ... ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another.... An imminent harm is not merely a fear of future harm, ... but is one that, from appearances, must be instantly ... addressed.

(3) “Totality of the circumstances” means all facts known to the ... officer at the time, including the [officer’s and subject’s] conduct....



Law enforcement cannot (for 3 yrs.) use biometric surveillance, like facial recognition

AB 1215 (Stats. 2019, Ch. 579)

Adds PC 832.19, and an uncodified §.

From the Legislative Counsel's Digest:

This bill ... prohibit[s] a law enforcement agency or ... officer from ... using any biometric surveillance system ... with an officer camera or data collected by [one]. [A] person [can] bring an action for equitable or declaratory relief against a law enforcement agency or officer who violates [this].

... [T]hese provisions [are repealed] on January 1, 2023.

Uncodified Section 1.

The Legislature finds and declares all of the following:

(a)- (b)(c) The use of facial recognition and ... biometric surveillance is the functional equivalent of requiring every person to show a personal photo identification ... at all times.... This ... allows people to be tracked without consent. It would ... generate massive databases about law-abiding Californians, and may chill the exercise of free speech....

(d).... (e) Facial and other biometric surveillance would corrupt the core purpose of officer-worn body... cameras by transforming [them] from transparency and accountability tools into roving surveillance systems.

(f) [F]acial recognition and other biometric surveillance would disproportionately impact the civil rights and ... liberties of persons ... in highly policed communities. [It] would ... discourage[w] people ... including victims ..., undocumented persons, people with unpaid fines..., and those with prior criminal history from seeking police assistance or ... assisting the police.

Penal Code new section 832.19:

(a) [Definitions]:

(1) "Biometric data"

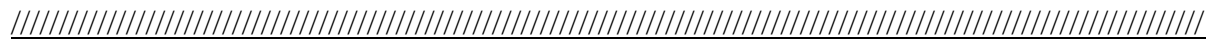
Regulations required for photo- and live lineups.

SB 923 (Stats. 2018, Ch. 977 (A 2018 bill, operative Jan. 1, 2020.) Adds PC 859.7

From the Legislative Counsel’s Digest.

This bill ... commencing Jan[.] 1, 2020, require[s] all law enforcement agencies and prosecutorial entities to adopt regulations for conducting photo lineups and live lineups..., as ...defined ..., to ensure reliable and accurate ...identifications. The ... regulations [must] comply with specified requirements, including that prior to ... the ... procedure, and as close in time to the incident as possible, the eyewitness provide the description of the perpetrator....

[PC 859.7, subd. (a) lists twelve minimum requirements for these regulations. Subd. (d) says this does not preclude admissibility of relevant evidence.]



Mental Health

See also Gun Violence Restraining Orders.

Confidentiality of reports of mental incompetence to stand trial.

SB 557 (Stats. 2019, Ch. 251) Adds PC 1369.5

New PC 1369.5:

(a) A document submitted to a court [under PC1368 et seq.]... is presumptively confidential, except as otherwise provided by law.

(b) [All such documents] shall be retained in the confidential portion of the court’s file. Counsel for [D] and [P] shall maintain [them] as confidential.

(c)(1) [D], [D’s Atty.], and [P] may inspect, copy, or [use] the documents, and ... information, without [a court] order ... for the defense, prosecution, treatment, and safety of [D], and ... the public.

(2) A motion, application, or petition to access the documents shall be decided [under CA Rules of Ct. 2.551(h), sealed records]



Rule of court for PC 1000.36 diversion for D’s incompetent to stand trial

See “Restoration to Competency Initiated by D’s Atty, or jail medical or mental provider” (below) for another aspect of this rewritten rule of court.

New Subd. (g) of Calif. Rule of Court 4.130

(g) Diversion of a [D] eligible for commitment under [PC] 1370 or 1370.01

(1) After the court finds ... [D] is mentally incompetent and before [D] is transported ... for restoration under [PC] 1370(a)(1)(B)(i), the court may consider whether [D] may benefit from diversion under [PC]1001.36. The court may set a hearing [for this]....

(2) The maximum period of diversion ... is the lesser of two years or the maximum time for restoration under [PC] 1370(c)(1) [for felonies] or [PC] 1370.01(c)(1) [for misdemeanors].

(3) The court may not condition a grant of diversion for [a D] found to be incompetent on either:

(A) [D]’s consent , either personally, or through counsel; or

(B) A knowing and intelligent waiver of [D]’s statutory right to a speedy trial, either personally, or through counsel.

(4) A finding that [D] suffers from a mental disorder ... rendering [D] eligible for diversion, any progress reports concerning [D]'s treatment in diversion, or any other records related to a mental disorder ... [from D's eligibility-hearing, participation in, or completion of, diversion, may not be used in any other proceeding without [D]'s consent, unless that information is relevant evidence ... admissible [under Cal. Const. Art. I, § 28, subd. (f)(2)].

(5) If, during ... diversion, the court determines that criminal proceedings should be reinstated under [PC] 1001.36(d), the court must, ..., appoint [an expert], to examine [D]....

(A) On [the report's] receipt ... , the court must [inquire] into [D]'s current competency, under [new subd.] (h)(2) [of this Rule.]

(B) If the court finds by a preponderance ... that [D] is ... competent, the court must hold a hearing as set forth in [PC] 1001.36(d).

(C) If the court finds by a preponderance ... that [D] is ... incompetent, criminal proceedings ... remain suspended, and the court must order [commitment] under [PC] 1370 (for felonies) or 1370.01 (for misdemeanors)....

(D) If the court concludes, based on substantial evidence, that [D] is ... incompetent and is not likely to attain competency ... before [D]'s maximum date for returning to court, and has reason to believe [D] may be gravely disabled, [under WI] 5008(h)(1)], the court may, instead of issuing a commitment ... under [PC] 1370 or 1370.01, refer the matter to the conservatorship investigator ... [for] conservatorship ... [under WI] 5350 et seq.

(6) If [D] ... satisfactorily ... completes diversion, the case must be dismissed under the procedures ... in [PC] 1001.36, and [D] must no longer be deemed incompetent to stand trial.



“Posttrial hearings on competence” for when D’s attorney or jail medical or mental health provider, says D is restored.

See “Diversion of Persons Mentally Incompetent to Stand Trial” (above) for another aspect of this rewritten Rule of Court.

Rule 4.130(h) Posttrial hearings on competence

(1) If, ... after the court has [found] [D] incompetent ..., and counsel for [D], or a jail medical or mental health staff provider, provides ... substantial evidence that [D]’s psychiatric symptoms have changed [so] as to create a doubt in ... the judge as to [D]’s current ... incompetence, the court may appoint [an expert] to examine [D] [on] whether [D] has regained competence.

(2).... If, in the [expert’s] opinion, [D] has regained competence, the court must conduct a hearing, as if a certificate of restoration of competence had been filed under [PC] 1372(a)(1), except that a presumption of competency does not apply. At the hearing, the court may consider any [relevant] evidence, [from] any party....

(A) ... [I]f the court finds ... by a preponderance ... that [D] is mentally competent, [criminal proceedings must be reinstated].

(B) ... [I]f the court finds [competence] has not been established by a preponderance ..., proceedings ... remain suspended....



Peace Officers

See Law Enforcement Officers

See also Evidence on *Pitchess* motions.



Plea Bargains

Benefits of later enactments cannot be waived.

AB 1618 (Stats. 2019, Ch. 586)

Adds PC 1016.8

From the Legislative Counsel's Digest:

This bill ... make[s] a provision of a plea bargain that requires [D] to ... waive future benefits of legislative enactments, initiatives, appellate decisions, or other changes in the law that may retroactively apply after the date of the plea, void as against public policy.

New PC 1016.8:

(a) The Legislature finds and declares...:

(1) ... *Doe v. Harris* (2013) 57 Cal.4th 64 [held] that ... plea agreements ... incorporate the reserve power of the state to amend the law or enact additional laws.... [A] plea agreement does not ... insulat[e] [the parties] from changes ... intended to apply to them.

(2) ... *Boykin v. Alabama* (1969) 395 U.S. 238, ... held that ... [D's] guilty plea be knowing, intelligent, and voluntary.

(3) Waiver is the voluntary, intelligent, and intentional relinquishment of a known right.... Waiver requires knowledge that the right exists [Citations].

(4) A plea bargain that requires [D] to ... waive unknown future benefits of legislative enactments, initiatives, appellate decisions, or other changes in the law that may [later] occur ... is not knowing and intelligent.

(b)A provision of a plea bargain that requires [D] to ... waive [the] benefits of [later] legislative enactments, initiatives, appellate decisions, or other changes ... that [are] retroactive[] ... is void as against public policy.

(c)...“[P]lea bargain” [is] defined in [PC] 1192.7 [subd. (b)].

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Prisons and Jails

Jails and Prisons can no longer charge for inmate-initiated medical visits, or for durable medical equipment or medical supplies.

AB 45 (Stats. 2019, Ch. 570)

Amends PC 4011.2, 5007.5, 5008.2; and adds PC 4011.3 and 5007.9.

From the “Legislative Counsel’s Digest” for this bill.:

[Former law authorized] [CDCR] to charge a \$5 fee for each inmate-initiated medical visit ... [with exceptions]....

[Former law also authorized local jailors] to charge a \$3 fee for each inmate-initiated medical visit..., [with exceptions]....

[Former law also authorized] a county or city to recover from an inmate or a person legally responsible for the inmate’s care the costs of necessary medical care rendered to the inmate, under certain conditions.

This bill ... prohibit[s] [CDCR or local authorities] from charging a fee for an inmate-initiated medical visit of an inmate of ... prison or ... jail....

The bill ... also prohibit[s] ... charging an inmate ... a fee for durable medical equipment or medical supplies....

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Private prisons phased out, with limited service-provider exceptions.

AB 32 (Stats. 219, Ch. 739)

Adds PC 5003.1 and 9500 to 9505.

[New] [PC] 5003.1.

(a) [& (b)] [Starting] Jan[.] 1, 2020, [CDCR] shall not enter into [or renew] a [K²] with a private, for-profit prison facility ... to ... hous[e] [or incarcerate]... state prison inmates.

(c) After Jan[.] 1, 2028, a state prison inmate or ... person under ... [CDCR jurisdiction] shall not be incarcerated in a private, for-profit prison...

(d) ... “[P]rivate, for-profit prison facility” does not include a [privately owned] facility ... leased and operated by [CDCR].

(e) ... [CDCR] may renew or extend a [K] with a private, for-profit prison facility to provide housing for state prison inmates ... to comply with ... any court-ordered population cap.

TITLE 9.5. PRIVATELY OWNED AND OPERATED DETENTION FACILITIES

9500. [Definitions:]

(a) “Detention facility” [defined].

(b) “Private detention facility” [defined].

9501.

Except as otherwise provided in this title, a person shall not operate a private detention facility within the state.

9502. [PC] 9501 shall not apply to...:

(a) Any facility providing ... mental health, educational, or medical services to a juvenile ... [under WI Div. 2, Pt. 1 (§§ 100 et seq.)]....

² K = contract.

(b) Any facility providing evaluation or treatment services to a person ... detained, or is subject to ... commitment [under] [PC] 1026, or ... [WI Div. 5 (§§ 5000 et seq.) or Div. 6 (§§ 6000 et seq.)]....

(c) Any facility providing educational, vocational, ..., or other ancillary services to an inmate in the custody ..., and ... supervision of, [CDCR] or a county sheriff or other law enforcement agency.

(d) A residential care facility licensed [by] [HS §§ 1200 et seq.])....

(e) Any school facility used for... disciplinary detention of a pupil.

(f) Any facility used for the quarantine or isolation of persons for public health reasons [under HS Div. 105 (§§ 120100 et seq.)]....

(g) Any facility [for] temporary detention of a person ...arrested by a merchant [or other] person [under] [PC] 490.5 or 837.

9503. [PC] 9501 does not apply to any [private] property or facility ... leased and operated by [CDCR] ... or other law enforcement

9505. [PC] 9501 does not apply to...:

(a) A private detention facility ... operating pursuant to a ... [K] [in effect before Jan. 1, 2020] with a governmental entity ..., for the duration of that [K], not [including K-authorized] extensions.]

(b) A private ... facility [K] renewed [under PC 5003.1, subd. (e)].

[The “[L.A.] Times” reports that Geo Group, which manages 7 private prisons in Calif. by contract with ICE for immigration detention, has filed a lawsuit in Federal District Court in San Diego to block enforcement of this new law.]

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Probation

See Supervision: Probation, Parole, Mandatory Supervision; and PRCS.

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Registration as a Drug, or Sex, Offender

Registration as a Drug Offender Repealed.

AB 1261 (Stats. 2019, Ch. 580)

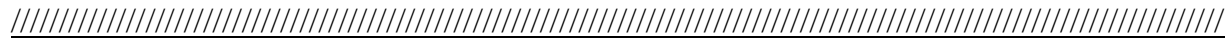
Repeals HS 11590, 11592, 11593, and 11595; amends HS 11591, 11591.5, and 11594.

From the “Legislative Counsel’s Digest”:

[The law before this bill] required a person who is convicted ... of specified [drug] offenses ... to register with the chief of police of the city ... or the sheriff ... [of the city or unincorporated area of residence]....

This bill ... delete[s] that registration requirement....

The bill [also] prohibit[s] the statements, photographs, and fingerprints obtained pursuant to these requirements as they read on January 1, 2019, from being inspected by the public or by any person other than a regularly employed peace or other law enforcement officer.



3-tiered PC 290 (sex offender) registration becomes operative Jan. 1, 2021.

SB 384 (Stats. 2017, Ch. 541.) Amended many §§ in the PC 290 series, and related §§

This is why your Penal Codes contain two versions of PC 290 and most related §§. One is operative until Jan. 1, 2021, and the other becomes operative that day.

This 2017 law divides registerable sex offenses into three tiers, and, for two of them, provides some opportunity after 10 and 20 years respectively, to petition to end registration. It also makes changes to the Marsy’s law web site.

The tiers are at PC 290, subd. (d). N.B.: D may be in two tiers at once on the same offense. So, looking first to see if D is in tier one risks overlooking something. Always look first to see if D is there, and then work down.

Restitution

D can be ordered to pay for medical exams of child sexual abuse victims.

AB 538 (Stats. 2019 Ch. 714 Amends PC 1203.1h, and many other statutes.

PC 1203.1h, subd. (b), as amended:

(b) In addition to any other costs ~~which~~ **that** a court is authorized to require [D] to pay, upon conviction of any offense involving sexual assault, ... including child ~~molestation~~ **sexual abuse**, the court may require that [D] pay, to the ... local governmental [entity] incurring [] the cost of any medical examinations conducted on [V] for the collection and preservation of evidence. [There must be a determination of ability to pay, considering specified circumstances] ... [A] court [shall not] penalize an indigent [D] by imposing an additional period of imprisonment in lieu of payment.



Rules of Court and Forms

Only California Rules and Forms, promulgated by the Judicial Council are included.

See also Courts, California Court Interpreter Credential Review Procedures.

See also Gun Violence Restraining Orders for new and revised forms.

See also Mental Health

DOJ now has a form to get witness criminal records per PC 11105, subd. (b)(9)

Link to the Form: [DOJ Form BCIA 8700 \(Rev. 08/20/19\)](#)

Link to DOJ's web page explaining this: [DOJ web page for requesting criminal records](#) .

The form's name is "Certification of Attorney of Record – Request for Records." The form is for requesting the criminal records of D (PC 1105, subd. (b)(8)), and witness criminal records (PC 11105, subd. (b)(9)).

This form implements the 2018 new law, AB 2133 (Stats. 2018, Ch. 965), that amended PC 11105, subd. (b)(9), apparently making getting witness rap sheets from D.O.J. far easier.

Full text of amended PC 11105, subdivision (b)(9):

(b): [DOJ] shall furnish state summary criminal history info[,] to:

¶...¶

(9) A public defender or attorney of record when representing a person in a criminal case or a juvenile delinquency proceeding, including all appeals and postconviction motions, or a parole, mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170, or postrelease community supervision revocation or revocation extension proceeding, if the information is requested in the course of representation.

[Eliminated is the requirement that there must be an independent legal authorization for the request. Added to the list of attorneys who can get this information are appellate and other post-conviction attorneys, e.g., concerning probation and other supervision. The legislative history shows that this is intended to be wide-ranging. The Senate Committee on Public Safety Report for June 19, 2018, says “For example, oftentimes critical prosecutorial witnesses have a long history of criminal offenses which may be relevant.... However, a criminal defense attorney cannot timely determine the criminal history without statutory access to the database. GB]

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Gun Violence Restraining Orders (GVROs) Forms start “EPO” or “GV”

For a general discussion of GVROs, see “Gun Violence Protective Orders.”

At the California Courts web site, GVRO forms are found at menu item “Forms and Rules,” (<https://www.courts.ca.gov/forms.htm>) categories “Emergency Protective Orders” (EPOs) and “Gun Violence Prevention (this category includes the EPOs.)”

Gun Violence Emergency Protective Orders (Rev. Jan. 1 or Sept. 1, 2019) in Chinese, English, Korean, Spanish, and Vietnamese, are EPO-002, EPO-002 C, etc.

As of January 1, 2020, most GVRO forms are in English and Spanish, and many are also in Chinese, Korean, and Vietnamese. As of September 1, 2020, almost all GVRO forms will be in all five languages.

Several of these forms a “INFO” forms of explanation

On September 1, are five completely new forms and five revised forms (presumably, in all five languages.)

There are scores of GVRO forms, when all in all languages are counted.

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Rule 8.72. “Responsibilities of court and electronic filer” rewritten and expanded

...

(b) Responsibilities of electronic filer

Each electronic filer must:

- (1) Take all reasonable steps to ensure that the filing does not contain computer code, including viruses, that might be harmful to the court’s electronic filing system and to other users ...;

...

Advisory Committee Comment

Subdivision (b)(1). One example of a reasonable step an electronic filer may take is to use a commercial virus scanning program. Compliance with this subdivision requires more than an absence of intent to harm the court’s electronic filing system or other users’ systems.

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Rule 8.74 rewritten and now covers the format of electronic documents.

- (a) Formatting requirements applicable to all electronic documents

(1) (2)

(3) ***Bookmarking:*** ... Each ... document must include [a] ... bookmark to each heading, subheading, and the first page of any component ..., including any table of contents, table of authorities, petition, verification, memorandum, declaration, certificate of word count, certificate of interested entities or persons, proof of service, exhibit, or attachment.... All bookmarks must be set to retain the reader's selected zoom setting.

(4) Electronic filers must comply with rules 1.201, 8.45, 8.46, 8.47, and 8.401 re[:] protection of sensitive information....

....

(6) ***Manual Filing:***

(A) When [a] filer seeks to file an electronic document consisting of more than 10 files, or when the document cannot or should not be electronically filed in multiple files, or when electronically filing ... would cause undue hardship, the document must ... be manually filed ... on an electronic medium such as a flash drive, DVD, or compact disc (CD). When [filing] one or more documents on an electronic medium, the ... filer must electronically file, on the same day, a “manual filing notification”

(B) Electronic media files such as audio or video must be manually filed. Audio files must be filed in .wav or mp3 format. Video files must be filed in .avi or mp4 format.

(C) [M]annually filed ... photo[s] must be ... in.jpg, .png, .tif, or .pdf format

(D) If an original electronic media file is converted to a required format for manual filing, the ... filer must retain the original.

(7)... (8) ***Color:*** An electronic document with a color component may be electronically filed or manually filed on electronic media, depending on its file size. **An electronic document must not have a color cover....** (9)....

(b) Additional formatting requirements applicable to documents prepared for electronic....

(1) *Font*: The font style must be a ... serif face. Century Schoolbook is preferred. A sans-serif face may be used for headings, subheadings, and captions. Font size must be 13-points.... Do not use all capitals (i.e., ALL CAPS) for emphasis.

(2) *Spacing*: Lines of text must be 1.5 spaced. Footnotes, headings, subheadings, and quotations may be single-spaced.... (3)

(4) *Alignment*: Paragraphs must be left-aligned, not justified.

(5) *Hyperlinks*: Hyperlinks to legal authorities and appendixes or exhibits are encouraged but not required. However, if ... includ[ing] hyperlinks ..., the hyperlink must be active as of the date of filing, and if [it] is to a legal authority, it should be formatted to standard citation format

(c) Additional ... requirements for certain ... documents....

(d) **Other formatting rules.** This rule prevails over other formatting rules.

New Rule 8.483 on appeals from civil commitments.

Note, Ch. 6 of Div. 1 is retitled: Conservatorship and Civil Commitment Appeals

Rule 8.483. Appeal from order of civil commitment

(a) Application and contents

(1) ... Except as otherwise provided in this rule, rules 8.300–8.368 and 8.508 govern appeals from civil commitment orders under [PC] 1026 et seq. (not guilty by reason of insanity), 1370 et seq. (incompetent to stand trial), 1600 et seq. (outpatient placement and revocation), and 2962 et seq. (mentally disordered offenders); [WI]1800 et seq. (extended detention of dangerous persons), 6500 et seq. (developmentally disabled persons), and 6600 et seq. ([SVPs])....

(b) Clerk’s transcript. [Listing 15 items, with subitems.]

See Restitution.

Infractions: Community Service instead of Fines: Location expanded.

SB 164 (Stats. 2019, Ch. 138)

Amends PC 1209.5.

PC 1209.5, as amended to add new subd. (d):

(d)(1) If the court determines that ... payment of the total fine would pose a hardship ..., [D] may ... perform ... community service in the county [where] the ... violation occurred, [or] of [D's] residence, or ... to which [D] has substantial ties....

(2) Regardless of the county in which [D] elects to perform community service ..., the court shall retain jurisdiction....

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Sexually Violent Predators

Complex rules to continue the trial

AB 303 (Stats. 2019, Ch. 606)

Amends WI 6603.

This bill adds to WI 6603 a new subdivision (c) (and reletters the other subds.)

[WI 6603] (c) To continue a trial, written notice shall be filed and served ... with ... declarations detailing specific facts showing ... necess[ity].

(1) All moving ... papers shall be served and filed at least 10 court days before the hearing, except as provided in paragraph (2).....

(2) If the ... notice is served by mail, the 10-day period ... [is] increased as follows:

(A) [5] calendar days if [both mailed and served] within ... Calif[.]

(B) [10] calendar days if either the ... mailing or [service] address is outside ... of California, but within the United States. (C) [20] calendar days if ... outside the United States.

(D) Two calendar days if the notice is served by [fax], express mail, or [other] overnight delivery.

(3) [Opposition] papers ... shall be filed ... and ... served ... at least four court days before the hearing. All reply papers shall be served ... at least two court days before the hearing. A party may waive [these rights] after receiving actual notice....

(4) If a ... continuance [motion] does not comply..., the court shall hold a hearing on whether there is good cause for [that] failure].... If the moving party [doesn't] show good cause for the failure to give notice, the motion ... shall not be granted.

(5) Continuances shall be granted only upon a showing of good cause. The court shall not find good cause solely based on the convenience ... or a stipulation of the parties....

(6) In determining good cause, the court shall consider the ... convenience and prior commitments of all witnesses. The court shall also consider [those] in selecting a continuance date....

(7) Except as specified in paragraph (8), a continuance shall be granted only for the [necessary] time.... [T]he court shall state on the record the facts [justifying] the length of the continuance.

(8)... “[When the good cause is that the assigned] attorney ... has another trial or probable cause hearing in progress.... [the] continuance shall not exceed 10 court days after ... that



Statutes of Limitations

Limitations Period extended from 3 years to 5 for all PC 273.5s

SB 273 (Stats. 2019, Ch. 546)

Adds PC 803.7, and amends PC 13519

New PC 803.7:

- (a) [P]rosecution for [PC 273.5] may be [started] within 5 years....**
- (b) This section applies to crimes ... committed on or after January 1, 2020, and to crimes [committed earlier] for which the statute of limitations ... has not elapsed as of January 1, 2020.**

This bill also contains training requirements at POST school. (PC, amended 13519.)
Sec. 2 of this bill, has uncodified legislative findings and declarations.

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Subpoena

Email service enforceable by contempt if acknowledged.

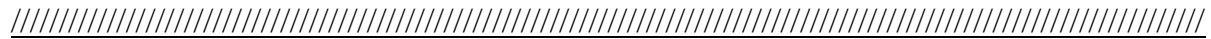
SB 471 (Stats. 2019, Ch. 851) Amends PC 1328d; repeals PC 1328a, 1328b, and 1328c.

Amended PC 1328d:

(a) ... [E]xcept as specified in [PC 1328, subd. (c) (service on peace officers)] a subpoena may be delivered by mail or messenger, messenger, electronic mail, or facsimile transmission. Service shall be effected [in the several possible ways specified.].... A subpoena [thus] issued and acknowledged ... [has] the same force and effect as a subpoena personally served. Failure to comply with [such an issued and acknowledged] subpoena ... may be punished as a contempt and the subpoena may so state; [but] a warrant ... or a body attachment may not be issued based upon a failure to appear after being [thus] subpoenaed....

(b) A party requesting a continuance, based upon the failure of a witness to appear [as] ... required for his or her their appearance or testimony pursuant to a subpoena, shall prove ... that the party has complied with ~~the provisions of~~ this section. ~~Such a~~ **That** continuance shall only be ... for [the] time ~~which~~ that would allow personal service ... and [not] longer than that allowed by law....

and an opportunity to be heard.... [P] shall provide notice to [V] if [V] has requested to be notified about ... progress.... If [V] advises [P] that there is an outstanding restitution order or restitution fine ..., [P] shall request a continuance....



180-day mandatory minimum for probation in certain drug cases now permissive.

AB 484 (Stats. 2019, Ch. 574.)

Amends PC 1203.076

PC 1203.076 as amended:

Any **A** person convicted of violating Section 11352 of the Health and Safety Code relating to the sale of cocaine, ... heroin, or [PCP]..., who is granted probation ~~shall~~ **may**, as a condition thereof, be confined in the county jail for at least 180 days. The imposition of the minimum 180-day sentence ~~shall~~ **may** be imposed in every case ~~where~~ **in which probation has been granted...**

[Note The text of amended PC 1203.076 clearly includes sales, but the Legislative Counsel’s Digest for this bill says, ambiguously, “convicted of furnishing or transporting a controlled substance relating to the sale of [the listed drugs].” Moral: read Legislative Counsel’s Digests as guides that are sometimes imperfect.]



Supervision can’t be revoked for failure to pay fines, fees, or assessments unless the court determines that D willfully to pay and has the ability to pay.

AB 1421 (Stats. 2019, Ch. 111)

Amends PC 1203.2

From the Legislative Counsel’s Digest:

Existing law prohibits the revocation of supervision for failure of a person to make restitution imposed as a condition of supervision, unless the court determines that the defendant has willfully failed to pay and has the ability to pay.

This bill prohibits the revocation of supervision for failure of a person to pay fines, fees, or assessments, unless the court determines that the defendant has willfully failed to pay and has the ability to pay.

The amended next-to-last sentence of PC 1203.2, subd. (a):

Supervision shall not be revoked solely for failure of a person to make restitution, **or to pay fines, fees, or assessments**, imposed as a condition of supervision unless the court determines that the defendant has willfully failed to pay and has the ability to pay.

Law enforcement referral of supervised Ds to transitional services.

SB 620 (Stats. 2019, Ch. 650)

Adds PC 13350 et seq.

From the Legislative Counsel’s Digest:

This bill authorize[s] [police and sheriff’s depts.] to furnish [supervised D’s, if D consents] name and address] to a county, city, city and county, or nonprofit organization that provides transitional services to ... supervise[es].

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Traffic and Pedestrians

See: Controlled Substances, including Cannabis.

Suspension of calif. drivers’ licenses for certain offenses deleted.

SB 485 (Stats. 2019, Ch. 505.)

Uncodified § 15 says this does not apply to anyone sentenced before Jan. 1, 2020.]

Amends: PC 529.5 & 647; VC 1808, 13202.5, and 23224 and several BP §§. Repeals VC 13201.5, 13202, 13202.4, and 13202.6

From “Assembly Committee on Public Safety 2019 Legislative Summary:

“[This bill deletes] the ability of the court and the DMV to delay, suspend, or revoke a person's driving privilege as a result of [various] conviction[s]...

“... misdemeanor ...selling, furnishing, giving, or causing [those], ..., [of] any alcoholic beverage to any person under 21 years....

“... misdemeanor ... of [a person under 21] purchasing or consuming any alcoholic beverage in any "on-sale" premises.

“... misdemeanor [by] an on-sale licensee who knowingly permits a person under 21 ... to consume any alcoholic beverage in the on-sale premises.

“... misdemeanor [by a person under 21 of] possessing [alcohol] in ... public.

“... misdemeanor [by a person under 21 of possessing] alcohol in a vehicle without a parent, adult relative, or other designated adult.

“... misdemeanor [by a person under 21 of] presenting or offering a fraudulent identification or one [not] his or her own ... to acquire alcohol.

“... misdemeanor ... possessing, manufacturing, selling, offering for sale, or transferring any document, not ... counterfeit, purporting to be a government [ID] or driver's license.

“... misdemeanor ... soliciting or agreeing to engage in a lewd act or an act of prostitution, if that offense involves the use of a vehicle.

“... numerous offenses related to controlled substances if a vehicle was involved in or incidental to the offense, as specified.

“... a public offense [by a minor] involving a pistol, revolver, or other firearm capable of being concealed upon the person [by a minor].

“... an offense of vandalism or defacing a structure with butyric acid.”

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Detained Juveniles Must Get Opportunities for Online Postsecondary Education.

SB 716 (Stats. 2019, Ch. 857) Adds WI 858, 889.2, and 1762.

From the Legislative Counsel’s Digest:

This bill ...[s] require ... probation department[s] to ensure that juveniles with a high school diploma or ... high school equivalency certificate who are detained in, or committed to, a juvenile hall, [or other facility] have access to, and can choose to participate in, public postsecondary academic and career technical courses ...offered online, and for which they are eligible....

The bill ... authorize[s] ... probation departments, in coordination with county offices of education, to use juvenile court school classrooms and computers ... [to] implement[] [this bill].... [and] encourage[s] ... probation ... to develop ... educational partnerships with ... public postsecondary campuses....

¶...¶

This bill ... require[s] [DJJ, renamed on July 1, 2020 to YCR] to the extent feasible using available resources, to ensure that youth with a high school diploma or ... high school equivalency certificate who are detained in, or committed to, [DJJ or YCR] have access to, and can choose to participate in, public postsecondary academic and career technical courses ... offered online, and for which they are eligible.... The bill would also encourage [DJJ or YCR] to develop other educational partnerships with local public postsecondary campuses....

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Wiretaps and Electronic Communications

See also “Brief Mention”: Wiretapping authorization sunset date extended from Jan. 1, 2020 to Jan. 1, 2025. (The Wiretap chapter is PC 629.50 to 629.50.)

Wiretapping authorization sunset extended from Jan. 1, 2020 to Jan. 1, 2025.

AB 304 (Stats. 2019 Ch. 607) Amends PC 629.88. The Wiretap laws start at PC 629.50.

The full title and reach of the wiretap chapter is “Interception of Wire, Electronic Digital Pager, or Electronic Cellular Telephone Communications.”

Authorization to Disclose Results of Wiretaps Expanded.

SB 439 (Stats. 2019, Ch. 645)

Amends PC 629.78 and 629.82

PC 629.78 is amended by adding a final clause:

Any person who has received... any information [about] a wire or electronic communication, or evidence derived therefrom, intercepted ... [under] this chapter [629.50 to 629.98], may, pursuant to [PC] 629.82, disclose the contents of that communication or ... evidence while giving [sworn] testimony ... in any criminal court ... or ... grand jury proceeding-, **or in an administrative or disciplinary hearing involving the employment of a peace officer.**

PC 629.82 is amended as described in the Legislative Counsel's Digest:

[PC 629.82, before amendment] prohibited a peace officer ... from disclosing or using the contents of intercepted wire or electronic communications relating to crimes other than certain enumerated crimes, such as murder, human trafficking, and violent felonies, and those specified in the order of authorization, except to prevent the commission of a public offense.

This bill ... [now] [also] authorize[s] a peace officer ... to [also] disclose those contents if they relate to grand theft involving a firearm or maliciously exploding or igniting a destructive device or any explosive causing bodily injury, mayhem or great bodily injury, or death.

... [N]ew Subd. (d) of PC 629.82] ... also authorize[s] a peace officer ... to disclose those contents if they relate to a crime involving a peace officer and are disclosed in an administrative or disciplinary hearing.

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Brief Mention

Juvenile records sealed pursuant to PC 851.7, and WI 781, 786, and 793 can be accessed, and used by P to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case. AB 1537 (Stats. 2019, Ch. 50), amending the PC and WI §§ listed here.

Developmental Centers Deleted from possible placements for mentally incompetent juveniles. Amends WI 709. (Eff. Jul. 31, 2019) AB 439 (Stats. 2019, Ch. 161) Developmental Centers were listed by accident—they only accept adults.

Board. of Parole Hearings commissioners increased from 15 to 17. SB 94 (Stats. 2019, Ch. 25.) Amends GC 5075 (and many others).

“Organized retail theft” in PC 490.4, sunset dates extended from Jan. 1, 2021 to July 1, 2021. SB 94 (Stats. 2019, Ch. 25), amending PC 490.4 (and many others).

A Committee on the Revision of the Penal Code is created within the Calif. Law Revision Commission. A multi-year project is envisioned. SB 94, Sec. 2. GC 8280 et seq.

Many “derogatory terms, including ... ‘mental disorder’ and ‘mental defect’ [are replaced] with more culturally sensitive terms [like ‘mental health disorder]” by AB 46 (Stats. 2019, Ch. 9), amending PC `1026, 1367, 4011.6, WI 5300, and many other §§.

The Calif. Victim Compensation Bd. can now provide compensation equal to loss of income or support because of loss of liberty during a human trafficking crime. AB 629, (Stats. 2019, Ch. 575), amending GC 13957 and 13957.5.

The California Conservation Corps can establish the Education and Employment Reentry Program for formerly incarcerated Ds who served on a California Conservation Camp program crew and were recommended by Forestry and Fire Protection and CDCR. AB 1668 (Stats. 2019, Ch. 587. Adds to the Public Resources Code, §§14415 et seq.

When more than one violation of a specified financial elder abuse felony occurs in multiple jurisdictions, and all relevant Ps agree, prosecution of all can be in any one of them. SB 304 (Stats. 2019, Ch. 206) Adds PC 784.8

Local law enforcement agencies are authorized to adopt a policy, including a training policy, on senior and disability victimization. A policy adopted or revised on and after July 1, 2020, must be posted to its website. SB 338 (Stats. 2019, Ch. 641) Adding PC 368.6, amending PC 368.5, and amending WI 15650.

The prohibition on buying more than one handgun a month is extended to include semiautomatic centerfire rifles, with the same exemptions as for handguns. Also, firearms licensees shall not sell, supply, deliver, or give possession or control of a semiautomatic centerfire rifle to anyone under 21, with exemptions including having a valid hunting license. SB 61 (Stats. 2019, Ch. 737), amending five PC §§.

A "firearm precursor part" is defined. This bill, starting July 1, 2024, adds several misdemeanor offenses concerning sale, transfer, and bringing into California firearm precursor parts. AB 879 (Stats. 2019, Ch. 730) Adding and amending many PC §§.

The local authority issuing licenses to carry concealed handguns is now required, rather than just authorized, to charge a fee for the license. The fee must be equal to the reasonable costs for processing the application, issuing it, and enforcing the license. The prohibition on charging more than \$100 for the fee is deleted. AB 1297 (Stats. 2019, Ch. 732), amending PC 26190.

Crimes connected to operating a lottery or any slot or card machine, contrivance, appliance or mechanical device. Specified gambling crimes added to the "criminal profiteering activity," list. AB 1294 (Stats. 2019, Ch. 268) Amends PC 186.2.

Those entitled to Youth Offender Hearing must be given that within 6 months of becoming eligible. AB 965 (Stats. 2019, Ch. 577) Amending PC 3051.

Rape kits (specified sexual assault forensic evidence) now "shall," instead of only "should," either be submitted by law enforcement agencies to a crime lab or the agency must ensure that a rapid turnaround DNA program, as specified, is in place; and the lab must either process the evidence or transmit the evidence to another crime lab for processing, as specified. SB 22 (Stats. 2019, Ch. 588), amending PC 680, 689.3, and 13823.14.

