

2019

Legislative Digest



CALIFORNIA
DISTRICT
ATTORNEYS
ASSOCIATION

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— 2019 Edition —

by

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Business and Professions Code

B&P 4650

B&P 4651

B&P 4652

B&P 4653

B&P 4654

B&P 4655

B&P 4656

B&P 4657

(New)

(Ch. 167) (AB 1540)

(Effective 1/1/2020)

Creates new Chapter 10.7 in Division 2 of the Business & Professions Code entitled "Music Therapy."

New B&P 4656 provides that it is an unfair business practice within the meaning of existing B&P 17200–17210 to use the title "Board Certified Music Therapist" unless the requirements of new B&P 4654 are met.

New B&P 4654 prohibits a music therapy provider from using the title of "Board Certified Music Therapist" unless he or she has completed all of the following:

1. a bachelor's degree or higher, from a music therapy degree program approved by the American Music Therapy Association; and
2. a minimum of 1,200 hours of supervised clinical work through pre-internship training at an approved degree program and internship training through an approved national roster or university affiliated internship; and
3. the current requirements for certification.

Defines "music therapy" as the clinical and evidence-based use of music therapy interventions in developmental, rehabilitative, habilitative, medical, mental health, preventive, wellness care, or educational settings to address physical, emotional, cognitive, and social needs of individuals within a therapeutic relationship.

B&P 6060

(Amended)

(Ch. 152) (SB 544)

(Effective 1/1/2020)

Prohibits the State Bar and members of the examining committee, when determining whether an applicant for admission to practice law is of good moral character, from reviewing or considering an applicant's medical records relating to mental health *except* if the applicant seeks to use the records to demonstrate that he or she is of good moral character or as a mitigating factor to explain a specific act of misconduct. Prohibits the State Bar and members of the examining committee from requesting or seeking to review any medical records relating to mental health, including by obtaining the consent of the applicant, except as specified above.

continued

[The legislative history of this bill says that the State Bar has “unchecked authority” to review an applicant’s mental health history because of the “extremely broad” authorization and release of records and information that applicants sign as part of the good moral character assessment process. The prohibition on the State Bar being permitted to ask applicants to consent to allow the Bar to review their mental health history was added to the bill because of a concern that applicants would feel compelled to provide consent out of fear that failure to consent would affect their likelihood of admission to practice law.]

B&P 6070.5
(New)
(Ch. 418) (AB 242)
(Effective 1/1/2020)

Requires the State Bar to adopt regulations to add the following to the mandatory continuing legal education (MCLE) requirements for attorneys: training on implicit bias and the promotion of bias-reducing strategies to address how unintended biases regarding race, ethnicity, gender identity, sexual orientation, socioeconomic status, or other characteristics undermine confidence in the legal system. Requires attorneys to participate in implicit bias training for each MCLE compliance period ending *after* January 31, 2023. Uncodified Section One of this bill defines “implicit biases” as positive or negative associations that affect beliefs, attitudes, and actions towards other people.

This bill also amends Gov’t C. 68088 to authorize the Judicial Council to develop training on implicit bias and to require court staff who interact with the public to complete two hours of implicit bias training every two years starting January 1, 2022.

[Uncodified Section One of this bill contains several findings and declarations by the Legislature, including these: all persons possess implicit biases; in the United States, studies show that most people have an implicit bias that disfavors African Americans and favors Caucasian Americans; people have negative biases toward members of other socially stigmatized groups such as Native Americans, immigrants, women, disabled people, Muslims, and members of the LGBTQ community; judges and lawyers harbor the same kinds of implicit biases as others; it is the intent of the Legislature to ameliorate bias-based injustice in the courtroom.]

B&P 6140
B&P 6140.9
B&P 6141
(Amended)
(Ch. 698) (SB 176)
(Effective 1/1/2020)

Increases the annual fee the State Bar may collect from active lawyers from a maximum of \$315 to a maximum of \$438. Existing B&P 6140.55 continues to permit the State Bar to add up to \$40 for the Client Security Fund. Existing B&P 6140.6 permits the State Bar to add up to \$25 for the costs of its disciplinary system. B&P 6140.9 is amended to provide that for 2020, the additional \$10 for the Lawyer Assistance Program will be only \$1 and then will go back up to \$10 for 2021. Thus, the total mandatory fees for an active lawyer for 2020 are a maximum of \$504 (\$438 + \$40 + \$25 + \$1).

Increases the annual fee for inactive lawyers from a maximum of \$75 to a maximum of \$108, plus some additional mandatory fees.

B&P 6401.7
(Amended)
(Ch. 128) (AB 1213)
(Effective 1/1/2020)

Extends the sunset date three years, from January 1, 2021 to January 1, 2024 for provisions of law pertaining to legal document assistants and unlawful detainer assistants, which are in Chapter 5.5 of Division Three of the Business & Professions Code (B&P 6400–6415). This bill also makes a number of technical, non-substantive amendments to this chapter.

B&P 7520.1
(Repealed)
B&P 7529
B&P 7542
(Amended)
B&P 7558.1
(Repealed & Added)
(Ch. 326) (SB 385)
(Effective 1/1/2021)

Eliminates infraction punishment for the unlicensed practice of private investigation by repealing B&P 7520.1, making all violations relating to private investigator licensure misdemeanors pursuant to existing B&P 7523.

[Repealed B&P 7520.1 had provided that a person engaging in a business as a private investigator who violates B&P 7520 is guilty of an infraction. B&P 7520 continues to prohibit engaging in a business as a private investigator without a license, or representing one's self as a licensee when he/she is not licensed, or falsely representing that he/she is employed by a licensee. Existing B&P 7523 continues to provide that it is a misdemeanor crime to violate any provision of B&P 7512–7573.5 relating to private investigator licensure. Punishment is up to one year in jail and/or by a fine of up to \$5,000 or \$10,000, depending on the violation.]

Makes several other changes to private investigator provisions. Amends B&P 7542 to exempt peace officers from training requirements for powers of arrest and carrying a firearm, if they have successfully completed such training

continued

as a part of their peace officer training. Amends B&P 7529 to require that private investigators be issued an “enhanced photo identification card” that includes a license expiration date as evidence of licensure, instead of the current “pocket card.”

B&P 19283.1
(Amended)
(Ch. 210) (SB 391)
(Effective 1/1/2020)

Authorizes a person employed as a special investigator or supervising special investigator by the Bureau of Household Goods and Services (BHGS) to issue a written notice to appear in court for a violation of the Household Movers Act (B&P 19225–19294). Provides that such an employee of BHGS is not a peace officer and does not have the powers of arrest.

[According to the legislative history of this bill, the BHGS took over licensing and enforcement duties for household movers in 2018 from the Public Utilities Commission (PUC). PUC investigators had the power of arrest, but this authority did not transfer to BHGS investigators. BHGS investigators need the ability to issue notices to appear, especially to unlicensed movers who may not be motivated by administrative actions or citations.]

B&P 22505.5
(Amended)
(Ch. 105) (AB 1032)
(Effective 1/1/2020)

Adds services to those items (software) it is unlawful to intentionally use or sell in order to circumvent a security measure, access control system, or other control or measure that is used to ensure an equitable ticket buying process for event attendees. Adds “for event attendees” to clarify that the purpose of ticket buying controls is to ensure a fair ticket buying system for people attending an event and not for ticket sellers.

In addition to prohibiting the use or sale of ticket-buying software programs that allow a user to quickly buy a large number of event tickets at one time, this section now prohibits using or selling a *service* that circumvents ticket buying rules. According to the legislative history of this bill, the prohibition against software that circumvents ticket buying rules targets robotic ticket buying software called bots. To combat bots and make sure a human is buying tickets online, many ticket buying sites ask the user to look at a phrase in a box and retype it. The addition of the prohibition against services targets a first-party platform called TradeDesk, which is Ticketmaster’s platform that

continued

allows brokers to network hundreds of Ticketmaster.com accounts, buy thousands of tickets, and instantly relist those tickets at inflated prices on other sites such as Stubhub, Vivid Seats, or Ticketmaster's own resale platform. While it looks and acts like a bot, TradeDesk is actually a service that allows a ticket scalper to skirt the law against the use of bots.

Provides that "a control or measure that is used to ensure an equitable ticket buying process" includes limits on the number of tickets a person can purchase.

Defines "event attendee" as a person who purchases one or more tickets with an intent to attend the event, and specifically provides that an event attendee does include a ticket seller.

[Pursuant to existing B&P 22505, a violation of 22505.5 is a misdemeanor crime.]

B&P 22949.50
B&P 22949.51
(New)
(Ch. 140) (SB 180)
(Effective 1/1/2020)

Provides that except as permitted by federal law, a person shall not sell a gene therapy kit in California unless the seller includes a notice on the seller's Internet website and on a label on the package containing the gene therapy kit, stating that the kit is not for self-administration.

Defines "gene therapy" as the administration of genetic materials to modify or manipulate the expression of a gene product, or to alter the biological properties of living cells, for therapeutic use.

Defines "gene therapy kit" as a product that is sold as a collection of materials for the purpose of facilitating gene therapy experiments, including but not limited to, a system for the targeted cutting of DNA molecules such as type II Clustered Regularly Interspaced Short Palindromic Repeats (CRISPR) and associated proteins (CRISPR-Cas) systems, including CRISPR-Cas9.

[According to the legislative history, the concern addressed by this bill is the prevalence of do-it-yourself CRISPR kits that are sold online and advertised as being intended for self-administration. Some individuals have injected themselves with DNA-altering materials. The federal Food & Drug Administration (the FDA) announced in 2017 that the sale of gene therapy products for self-administration is illegal.]

B&P 22963
(Amended)
(Ch. 295) (SB 39)
(Effective 1/1/2020)

Amends the Stop Tobacco Access To Kids Enforcement Act (the STAKE Act) to add delivery requirements for the sale of tobacco online and by mail, in order to decrease youth access to tobacco.

Requires that a tobacco product be delivered only in a container that is conspicuously labeled with these words: "CONTAINS TOBACCO PRODUCTS: SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER IS REQUIRED FOR DELIVERY."

Also requires that upon delivery of a tobacco product, the signature of a person age 21 years of age or older be obtained before completing the delivery.

Permits a purchaser to designate an alternative address for delivery, if the purchaser's billing address has been verified.

[The STAKE Act is in B&P 22950–22964. B&P 22963 prohibits the sale or distribution of tobacco products directly or indirectly to any person under age 21 through the U.S. mail or through any other public or private delivery service, but exempts a seller or distributor from liability if the tobacco delivery provisions of B&P 22963 are complied with. B&P 22963 continues to authorize district attorneys, city attorneys, or the California Attorney General to assess civil penalties of between \$1,000 and \$10,000 for a violation. The amount of the penalty depends on whether the violation is a first, second, third, fourth, or fifth violation.]

B&P 25658
B&P 25658.5
B&P 25661
B&P 25662
(Amended)
(Ch. 505) (SB 485)
(Effective 1/1/2020)

Eliminates driver's license suspension as a penalty for these misdemeanor and infraction crimes that involve alcohol and persons under age 21, by eliminating the cross-reference to V.C. 13202.5 and by eliminating these Business & Professions Code crimes from V.C. 13202.5. The bill deletes license suspension provisions in a number of other sections as well. (See in particular V.C. 13201.5–13202.6 in the Vehicle Code section of this digest.) The legislative history of the bill states that its goal is to prohibit driver's license suspension for non-vehicle related crimes. However, a number of provisions repealed by this bill specifically required that a vehicle be involved in order for a driver's license to be suspended.

continued

B&P 25658 is the crime of selling or furnishing alcohol to a person under age 21, B&P 25658.5 is the crime of a person under age 21 attempting to purchase alcohol, B&P 25661 is the crime of a person under age 21 presenting false identification for the purpose of ordering or purchasing alcohol, and B&P 25662 is the crime of a person under age 21 possessing alcohol in a public place.

Based on uncodified Section 15 of the bill, a defendant who commits a crime before January 1, 2020 but who is not convicted or sentenced until January 1, 2020 or later, would not be subject to driver's license suspension based on a repealed provision. And a defendant who is convicted before January 1, 2020 but not sentenced until January 1, 2020 or later, would not be subject to driver's license suspension based on a repealed provision. Any court order issued *before* January 1, 2020, suspending or restricting a license, or ordering the Dep't of Motor Vehicles (DMV) to suspend or restrict a license, remains valid and is not affected by the repeal.

Uncodified Section 15 of the bill reads as follows:

“(a) This act is not intended to affect any order issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person. This act is also not intended to affect any action taken by the Department of Motor Vehicles, whether before, on, or after January 1, 2020, pursuant to an order issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person.

(b) This act is intended to remove the authority of the court to suspend, delay, or otherwise restrict the driving privilege, and to remove the authority of the court to order the Department of Motor Vehicles to suspend, delay, or otherwise restrict the driving privilege, of the following persons pursuant to this act:

(1) Persons who are convicted, on or after January 1, 2020, of an offense described in this act that would have been subject to the suspension, delay, or restriction.

(2) Persons who were convicted, before January 1, 2020, of an offense described in this act that would have been subject to the suspension, delay, or restriction, but for whom an order was not issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict their driving privilege.”

B&P 25668
(Amended)
(Ch. 457) (AB 1308)
(Effective 1/1/2020)

Expands the list of exceptions to the misdemeanor crimes of B&P 25658(a) (selling or furnishing alcohol to a person under age 21) and B&P 25662(a) (a person under age 21 possessing alcohol in a public place) by permitting students to taste alcohol while enrolled in an academic institution that has established an Associate's degree or Bachelor's degree program in hotel management or the culinary arts.

Retains the exception for students enrolled in an academic institution that has established an enology or brewing degree program to train industry professionals in the production of wine or beer.

Continues to require that the student doing the tasting be at least 18 years of age. Continues to define "tasting" as drawing an alcoholic beverage into the mouth but *not* swallowing or consuming.

B&P 26031.5
(New)
(Ch. 40) (AB 97)
(Effective 7/1/2019)

Adds this new section to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA, Proposition 64, November 2016) in order to provide that a licensing authority may issue a citation to a licensee or unlicensed person for any act or omission that violates any provision of Division 10 (Cannabis) of the Business & Professions Code (B&P 26000–26250), or any regulation adopted pursuant to it. Requires that the citation be issued in writing and that it describe with particularity the basis of the citation. Permits the licensing authority to assess an administrative fine of up to \$5,000 per violation by a licensee and up to \$30,000 per violation by an unlicensed person. Provides that each day of a violation constitutes a separate violation. Provides that the administrative fine is separate from, and in addition to, all other criminal, civil, and administrative remedies.

[This bill makes some other changes to MAUCRSA in the Business & Professions Code, and amends Gov't C. 11126 and adds new Revenue & Taxation Code 34019.5.]

B&P 26063
(Amended)
(Ch. 841) (SB 185)
(Effective 1/1/2020)

Expands the truth-in-advertising provisions for where cannabis is produced (e.g., which county it is grown in) to also apply to the kind of cannabis contained in the product, by providing that cannabis shall not be advertised, marketed, labeled, or sold using an appellation of origin likely to mislead a consumer as to the kind of cannabis he or she is purchasing. (Previously, this section prohibited only the advertisement, marketing, labeling, or selling of cannabis as being grown in a particular county unless 100 percent of it was produced in that county.)

B&P 26071
(New)
(Ch. 837) (SB 34)
(Effective 1/1/2020)

The Dennis Peron and Brownie Mary Act.

Permits a cannabis licensee that is authorized to make retail sales of cannabis to provide free cannabis or cannabis products to a medicinal cannabis patient or the patient's primary caregiver, after following specified procedures to ensure that the physician who recommended cannabis for the patient is in good standing.

This bill makes conforming amendments to other Business & Professions Code sections relating to cannabis. It also creates new Revenue & Taxation Code 6414 to exempt from the cannabis use tax any medicinal cannabis that is donated by a cannabis retailer to a medicinal cannabis patient, or that is donated to a cannabis retailer for subsequent donation to a medicinal cannabis patient.

[Uncodified Section Two of this bill declares the Legislature's concern about donated medicinal cannabis being driven to the black market after legalization of adult-use cannabis and that low-income medicinal cannabis patients are in need of cannabis donations.]

B&P 26122
(New)
(Ch. 830) (AB 1529)
(Effective 10/12/2019)

Permits the universal cannabis symbol on a cannabis cartridge or integrated cannabis vaporizer that contains cannabis or a cannabis product to be as small as one-quarter inch by one-quarter inch because these devices are too small to have a larger universal symbol and to have room for manufacturers to include strain names and potency levels. (Existing B&P 26130(c)(7) requires cannabis products to be marked with a universal symbol, as determined by the State Dep't of Public Health through regulation.)



[According to California Code of Regulations Title 17, Section 40412, the California universal cannabis symbol (see above) must be no smaller than one-half inch by one-half inch. Thus, the need for an exception for cannabis cartridges and vaporizers.]

Defines “cannabis cartridge” as a cartridge containing cannabis oil that is intended to be affixed to an electronic device that heats the oil and creates an aerosol or vapor. Defines “integrated cannabis vaporizer” as a singular device that contains both cannabis oil and an integrated electronic device that creates an aerosol or vapor.

continued

Civil Code

Civil Code 43.54
(New)
(Ch. 787) (AB 668)
(Effective 1/1/2020)

Provides that a person “shall not be subject to civil arrest in a courthouse while attending a court proceeding or having legal business in the courthouse.” Provides that this new section does *not* apply to arrests made pursuant to a valid judicial warrant and that it does not narrow or lessen any existing common law privilege.

Uncodified Section One of this bill contains 21 findings and declarations by the Legislature, including these:

1. Protecting persons from civil arrest while in California’s courthouses is necessary to preserve the vital role served by public access to courts.
2. Civil arrests of persons in California’s courthouses “must be considered unreasonable and unlawful seizures whether undertaken by local, state, or federal officers.”
3. “A person who is arrested or detained in violation of this act may, like any other person unlawfully arrested or detained, seek a writ of habeas corpus.”

[This bill also amends C.C.P. 177 to add that a judicial officer has the power “to prohibit activities that threaten access to state courthouses and court proceedings, and to prohibit interruption of judicial administration, including protecting the privilege from civil arrest at courthouses and court proceedings.” See the Code of Civil Procedure section of this digest for more information]

[The Legislative history of this bill provides that its purpose is to prevent arrests in courthouses by ICE (Immigration & Customs Enforcement).]

Civil Code 52.6
(Amended)
(Ch. 57) (SB 630)
(Effective 1/1/2020)

Clarifies that nothing in this section prevents a local governing body from adopting or enforcing a local ordinance to prevent slavery or human trafficking. Thus, a city council or county board of supervisors could adopt an ordinance that goes beyond the provisions of Civil Code 52.6, which requires businesses and specified entities to post human trafficking notices with phone numbers to call for help, and requires specified transportation entities to provide 20 minutes of human trafficking training to new and existing employees. Civil Code 52.6 also provides for civil penalties for non-compliance.

Civil Code 1708.86
(New)
(Ch. 491) (AB 602)
(Effective 1/1/2020)

Provides for a private right of action for a deepfake involving sexually explicit material. (A deepfake is a fabricated photograph or video of someone appearing to say or do something that he or she did not say or do.)

Provides that a “depicted” individual has a cause of action against a person who does either of the following:

1. Creates and intentionally discloses sexually explicit material and the person knows or reasonably should have known the depicted individual in that material did not consent to its creation or disclosure; or
2. Intentionally discloses sexually explicit material that the person did not create and the person knows the depicted individual in that material did not consent to the creation of the sexually explicit material.

Defines “depicted individual” as an individual who appears, as a result of digitization, to be giving a performance he or she did not actually perform, or to be performing in an altered depiction.

Provides that there is no liability under this new statute in either of these circumstances:

1. The sexually explicit material is disclosed in the course of reporting unlawful activity, exercising law enforcement duties, or in hearings, trials, or other legal proceedings; or
2. The sexually explicit material is a matter of legitimate public concern; or is a work of political or newsworthy value; or is commentary, criticism, or disclosure that is otherwise protected by the California Constitution or the United States Constitution.

Specifically provides that sexually explicit material is not of newsworthy value solely because the depicted individual is a public figure.

Provides for a three-year statute of limitations from the date of discovery for the filing of an action. An action must be commenced no later than three years from the date the unauthorized creation, development, or disclosure was discovered or should have been discovered with the exercise of reasonable diligence.

continued

Provides that a prevailing plaintiff may recover any of the following:

1. An amount equal to the monetary gain made by the defendant from the creation, development, or disclosure of the sexually explicit material;
2. Economic and non-economic damages, including damages for emotional distress *or* statutory damages in the sum of between \$1,500 and \$30,000 for all unauthorized acts with respect to any one work (the maximum is \$150,000 if the unlawful act was committed with malice);
3. Punitive damages;
4. Reasonable attorney's fees and costs; and /or
5. Any other available relief, including injunctive relief.

Civil Code 1748.40
Civil Code 1748.41
(New)
(Ch. 130) (AB 1428)
(Effective 1/1/2020)

Adds new Title 1.3.5 in Part 4 of Division 3 of the Civil Code entitled "Consumer Refunds." Provides that if a business other than a restaurant offers a refund to a customer via a prepaid debit card for a purchase initiated by a customer in California, the business must provide the customer with at least one other method of receiving the refund other than a prepaid debit card.

Thus, a customer will not be limited to a refund by means of a prepaid debit card and will be able to select the other refund method. According to the legislative history of this bill, a prepaid debit card is a less preferable financial instrument because of usage restrictions, maintenance fees, and expiration dates.

Civil Code 1798.99.1
(New)
(Ch. 872) (AB 2511)
(Effective 1/1/2020)
(2018 Legislation)

Creates new Title 1.81.45 in Part 4 of Division 3 of the Civil Code entitled "The Parent's Accountability and Child Protection Act."

Requires persons and businesses that sell products or services in California that are illegal to sell to a minor, to take reasonable steps to ensure that the purchaser is of legal age at the time of purchase or delivery.

Provides that reasonable steps include:

1. Requiring the purchaser or recipient to input, scan, or provide a government issued identification;

continued

2. Requiring the purchaser to use a non-prepaid credit card for an online purchase;
3. Implementing a system that restricts individuals with accounts designated as minor accounts from purchasing the product; or
4. Shipping the product or service to an individual who is of legal age.

Provides that “reasonable steps” does not include consent obtained through the minor.

Provides that a seller’s reasonable and good faith reliance on bona fide evidence of the purchaser or recipient’s age shall constitute an affirmative defense.

Specifies that these products and services are subject to this new section: aerosol containers of paint that are capable of defacing property, etching cream capable of defacing property, dangerous fireworks, tanning in an ultraviolet tanning device, dietary supplement products containing ephedrine group alkaloids, body branding, firearms, BB devices, ammunition, tobacco, cigarettes, electronic cigarettes, paraphernalia for smoking or ingesting tobacco or controlled substances, and less lethal weapons.

Authorizes a public prosecutor to enforce this section by bringing an action to recover a civil penalty of up to \$7,500 for each violation. [Existing Gov’t C. 26500 provides that the district attorney is the public prosecutor, except as otherwise provided by law.]

Provides that this new section does not apply to a business that is regulated by state or federal law requiring greater age verification.

Civil Code 1798.99.80
Civil Code 1798.99.82
Civil Code 1798.99.84
Civil Code 1798.99.88
 (New)
 (Ch. 753) (AB 1202)
 (Effective 1/1/2020)

Creates new Title 1.81.48 in Part 4 of Division 3 of the Civil Code entitled “Data Broker Registration.”

Requires data brokers to register with the California Attorney General, pay a registration fee, and provide the following information: the name of the data broker, the physical address, the email address, and the Internet website address.

continued

Defines “data broker” as a business that collects and sells to third parties the personal information of a consumer with whom the business does not have a direct relationship. Provides that a “data broker” does not include specified consumer reporting agencies, specified financial institutions, or entities covered by the Insurance Information and Privacy Protection Act.

Makes failing to register as a data broker subject to injunction and civil penalties, fees, and costs. Authorizes the Attorney General to bring an action to recover a civil penalty of \$100 for each day a data broker fails to register, an amount equal to the fees that are due during the period the data broker failed to register, and expenses incurred by the Attorney General in the investigation and prosecution of the data broker.

Requires the Attorney General to create a page on his or her Internet website where the information provided by data brokers is made accessible to the public.

[The goal of the bill is to help consumers know who to contact in order to opt out of the sale of their personal information. Uncodified Section One of the bill contains a number of the Legislature’s findings and declarations about data brokers, including the Legislature’s desire to give consumers an additional tool to help control the sale of their personal information.]

Civil Code 1834.9.5
(New)
(Ch. 899) (SB 1249)
(Effective 1/1/2020)
(2018 Legislation)

Prohibits a manufacturer from importing for profit, selling, or offering for sale any cosmetic that was developed or manufactured using an animal test that was conducted or contracted by the manufacturer, or any supplier of the manufacturer, on or after January 1, 2020.

Defines “animal test” as the internal or external application of a cosmetic, either in its final form or any ingredient thereof, to the skin, eyes, or other body part of a live, non-human vertebrate.

Contains several exceptions, such as an animal test of a cosmetic that is required by a federal or state regulatory authority if all of the following apply:

continued

1. the ingredient is in wide use and cannot be replaced by another ingredient capable of performing a similar function; and
2. a specific human health problem is substantiated, and the need to conduct animal tests is justified and supported by a detailed research protocol; and
3. there is not a non-animal alternative method accepted for the relevant endpoint by the relevant federal or state regulatory authority.

Provides that this new section does not apply to:

1. a cosmetic, if the cosmetic in its final form was sold in California or tested on animals before January 1, 2020, even if the cosmetic is manufactured after that date; or
2. an ingredient sold in California or tested on animals before January 1, 2020, even if the ingredient is manufactured after that date.

Provides that cosmetic inventory found to be in violation of the test ban may be sold for a period of 180 days, thus giving sellers up to 180 days to remove products from store shelves.

Provides that a violation is punishable by a civil fine of \$5,000 and an additional \$1,000 for each day the violation continues. Provides that a violation may be enforced by a district attorney or city attorney and that the fine shall be paid "to the entity that is authorized to bring the action." (i.e., the district attorney or the city attorney, apparently.)

Provides that a district attorney or city attorney may review the testing data that a manufacturer has relied on in the development of a cosmetic sold in California. (It appears that a search warrant or subpoena is not required.)

Subdivision (f) provides in its entirety:

"A district attorney or city attorney may, upon a determination that there is a reasonable likelihood of a violation of this section, review the testing data upon which a cosmetic manufacturer has relied in the development or manufacturing of the relevant cosmetic product sold in the state. Information provided under this section shall be protected as a trade secret as defined in subdivision (d) of Section 3426.1. Consistent with the procedures described in Section 3426.5, a district attorney or city attorney shall enter a protective order with a manufacturer before receipt of

continued

information from a manufacturer pursuant to this section, and shall take other appropriate measures necessary to preserve the confidentiality of information provided pursuant to this section.”

Code of Civil Procedure

C.C.P. 177
(Amended)
(Ch. 787) (AB 668)
(Effective 1/1/2020)

Adds that a judicial officer has the power “to prohibit activities that threaten access to state courthouses and court proceedings, and to prohibit interruption of judicial administration, including protecting the privilege from civil arrest at courthouses and court proceedings.”

Uncodified Section One of this bill contains 21 findings and declarations by the Legislature, including these:

1. Protecting persons from civil arrest while in California’s courthouses is necessary to preserve the vital role served by public access to courts.
2. Civil arrests of persons in California’s courthouses “must be considered unreasonable and unlawful seizures whether undertaken by local, state, or federal officers.”
3. “A person who is arrested or detained in violation of this act may, like any other person unlawfully arrested or detained, seek a writ of habeas corpus.”

[This bill also adds new Civil Code 43.54 to provide that a person “shall not be subject to civil arrest in a courthouse while attending a court proceeding or having legal business in the courthouse,” and provides that it does *not* apply to arrests made pursuant to a valid judicial warrant. See the Civil Code section of this digest for more information.]

[The Legislative history of this bill provides that its purpose is to prevent arrests in courthouses by ICE (Immigration & Customs Enforcement).]

C.C.P. 203
(Amended)
(Ch. 591) (SB 310)
(Effective 1/1/2020)

Eliminates the prohibition on a convicted felon serving as a trial juror if the person is not incarcerated in prison or jail; is not currently on parole, postrelease community supervision, felony probation, or mandatory supervision for a felony conviction; and is not required to register as a sex offender pursuant to P.C. 290 based on a felony conviction.

Previously, all convicted felons were prohibited from serving as trial jurors unless their civil rights had been restored. Now a person convicted of any felony who is not currently required to register as a sex offender can sit on a jury, no matter how serious or violent the felony, and no matter how recent the felony, as long as the person is not currently in custody or currently under supervision.

C.C.P. 340.16
(Amended)
(Ch. 462) (AB 1510)
(Effective 10/2/2019)

Revives civil claims for damages of more than \$250,000 arising out of a sexual assault or other inappropriate contact, communication, or activity of a sexual nature by a physician occurring at a student health center between January 1, 1988 and January 1, 2017, that would otherwise be time-barred prior to January 1, 2020, because the statute of limitations has expired. Provides that if a claim is not already filed, it may be commenced until December 31, 2020.

According to the legislative history, this bill is in response to allegations of sexual assault and sexual improprieties going back 30 years against Dr. George Tyndall while he worked as a gynecologist at the University of Southern California student health center. The Legislature is specifically creating a one-year window during which victims may file claims.

Provides that an attorney representing a claimant seeking to recover damages must file a declaration with the court under penalty of perjury stating that the attorney has reviewed the facts of the case and consulted with a mental health practitioner, and that the attorney has a good faith belief that the claim value is more than \$250,000. Requires that this declaration be filed with the complaint. Or, if a claim is already pending, the declaration must be filed within 60 days of the effective date of these amendments.

Adds that for the purposes of C.C.P. 340.16, it is not necessary that a criminal prosecution or other proceeding have been brought as a result of sexual assault or, if a criminal prosecution was brought, whether that prosecution resulted in a conviction or adjudication.

Retains provisions that continue to permit a civil action to be filed as a result of sexual assault committed on or after the plaintiff's 18th birthday, within 10 years from the date of the last act or attempted act of sexual assault, or within three years from the date the plaintiff discovered or reasonably should have discovered that an injury or illness resulted from an act of sexual assault.

C.C.P. 415.21
(Amended)
(Ch. 12) (AB 622)
(Effective 1/1/2020)

Adds a “covered multifamily dwelling” to those places (gated communities) that must grant access to a specified person for a reasonable period of time for the purpose of serving a subpoena or performing lawful service of process. Continues to specify that an investigator employed by a district attorney, public defender, county counsel, city attorney, or the Attorney General must be granted access under this section, as well as a representative of a county sheriff or marshal, or a registered process server.

Defines a “covered multifamily dwelling” as either (1) an apartment building, including a timeshare apartment building not considered a place of public accommodation or transient lodging, with three or more dwelling units; or (2) a condominium, including a timeshare condominium not considered a place of public accommodation or transient lodging, with four or more dwelling units.

[According to the legislative history of this bill, its purpose is to ensure that persons living in locked buildings that do not have a gate cannot place themselves beyond the reach of the law. Apparently, some high-rise communities have taken the position that C.C.P. 415.21 does not apply to them because there is no gate.]

C.C.P. 1005
(Amended)
(Ch. 585) (AB 1600)
(Effective 1/1/2020)

Provides that the notice requirements set forth in this section for the filing of a written motion to discover peace officer personnel records (i.e., a *Pitchess* motion), apply only in civil actions and not in criminal cases. Therefore, the requirement to provide notice of a *Pitchess* motion 16 court days before the hearing (or more than 16 court days, if service is by mail or facsimile) applies only in civil cases.

[This bill also amends Evidence C. 1043 to eliminate the cross-reference to C.C.P. 1005 time periods in criminal cases and to instead provide that notice of a motion to discover peace officer personnel records in a criminal case must be filed at least 10 court days before the hearing. The purpose of this bill is to shorten the time period between the filing of a *Pitchess* motion and the holding of a hearing in a criminal case. See the Evidence Code section of this digest for more information.]

Elections Code

Elections Code 107
(New)
(Ch. 563) (SB 47)
(Effective 1/1/2020)

Requires a committee formed pursuant to existing Gov't C. 82013 that pays for the circulation of a state or local initiative, referendum, or recall petition to create an "Official Top Funders" sheet. Sets forth numerous and detailed requirements for the Top Funders information, including the color of the type, font style, type size, the style of background on the sheet, and how the information is to be centered. Requires that the Top Funders information be included on the actual petition or be presented by a petition circulator as a separate document.

Requires that the Top Funders information be updated monthly. Requires that the top three funders be disclosed, by cross-referencing existing Gov't C. 84501(c), which defines "top contributors" as the three highest cumulative contributions of \$50,000 or more.

Existing Gov't C. 82013 defines "committee" as a person or combination of persons who directly or indirectly do any of the following:

1. Receive contributions totaling \$2,000 or more in a calendar year;
2. Make independent expenditures totaling \$1,000 or more in a calendar year; or
3. Make contributions totaling \$10,000 or more in a calendar year to or at the behest of candidates or committees.

[This bill also amends Elections Code 18600 to expand its misdemeanor crimes by adding intentionally misrepresenting or making a false statement about an Official Top Funders disclosure. See Elections Code 18600, below.]

Elections Code 14002
(Amended)
Elections Code 14004
Elections Code 18503
(New)
(Ch. 223) (AB 17)
(Effective 1/1/2020)

The Voter Protection Act.

New Elections Code 14004 prohibits an employer from requiring or requesting that an employee bring the employee's vote-by-mail ballot to work, or vote the employee's ballot at work.

continued

New Elections Code 18503 provides that a violation of section 14004 is subject to a civil fine of up to \$10,000 per election and that an action for a civil fine may be brought by the Secretary of State or by any public prosecutor with jurisdiction.

[The legislative history of this bill states that employees hear about politics from their bosses and might be persuaded to support policy measures or candidates that their boss supports. Particularly vulnerable are “low-income and financially insecure workers who are more susceptible to this form of voter coercion and intimidation.” The legislative history acknowledges that there is no evidence that employers in California are requesting that employees bring their ballots to work.]

Elections Code 18600
(Amended)
(Ch. 563) (SB 47)
(Effective 1/1/2020)

Expands the misdemeanor crimes in both subdivisions (a) and (b).

Subdivision (a) is the misdemeanor crime of a state or local initiative, referendum, or recall petition circulator intentionally misrepresenting or intentionally making a false statement about the contents or effect of a petition to a potential petition signer. It is expanded to add intentionally misrepresenting or intentionally making a false statement about the petition’s Official Top Funders disclosure required by new Elections Code 107.

Subdivision (b) is the misdemeanor crime of willfully and knowingly circulating or publishing a false statement or misrepresentation concerning the contents or effect of a state or local initiative, referendum, or recall petition for the purpose of influencing a person to sign the petition. It is expanded to add false statements or misrepresentations about the petition’s Official Top Funders disclosure required by new Elections Code 107.

[This bill also creates new Elections Code 107 which requires a committee that pays to circulate a state or local initiative, referendum, or recall petition to disclose the top three funders of the petition. See Elections Code 107, above.]

Elections Code 20010
(Amended)
(Ch. 493) (AB 730)
(Effective 1/1/2020)

Prohibits a person, committee, or entity, within 60 days of an election at which a candidate for elective office will appear on the ballot, from distributing, with actual malice, materially deceptive audio or visual media of the candidate with the intent to injure the candidate's reputation or to deceive a voter into voting for or against the candidate. Provides that the prohibition does *not* apply if the audio or visual media includes a disclosure stating: "This _____ has been manipulated" and the blank is filled with the word "image" or "video" or "audio." For visual media, requires that the text of the manipulation disclosure be of a size that is easily readable and that appears for the duration of the video. For audio media, requires that the disclosure be read in a clear spoken manner and in a pitch that can be easily heard by the average listener at the beginning of the audio, at the end of the audio, and every two minutes during the audio if the audio is longer than two minutes.

Authorizes a candidate for elective office whose voice or likeness appears in a materially deceptive audio or visual media distributed in violation of this section to seek injunctive or other equitable relief and to bring an action for general or special damages against the person, committee, or entity that distributed the material. The burden on the plaintiff is by clear and convincing evidence.

Sets forth a number of exceptions, such as TV, radio, cable, or satellite broadcasting stations that are paid to broadcast a visual media or audio media; broadcasting stations that broadcast the material as part of a bona fide newscast if the broadcast clearly acknowledges that the questions are about the material's authenticity; an Internet website, newspaper, or magazine that routinely carries news and commentary of general interest and publishes deceptive material if the publication clearly states that the material does not accurately represent the speech or conduct of the candidate; and materially deceptive media that constitutes satire or parody.

Defines "materially deceptive audio or visual media" as an image or an audio or video recording of a candidate's appearance, speech, or conduct that has been intentionally manipulated in a manner such that both of the following conditions are met:

continued

1. the image or audio or video recording would falsely appear to a reasonable person to be authentic; and
2. the image or audio or video recording would cause a reasonable person to have a fundamentally different understanding or impression of the expressive content of the image or audio or video recording than that person would have if the person were hearing or seeing the unaltered, original version of the image or audio or video recording.

[The purpose of this bill is to prevent “deepfakes”—a fabricated photograph or video of someone appearing to say or do something that he or she did not say or do. Based on the legislative history and differing opinions about whether the bill violates freedom of speech, the bill is likely to be challenged by someone on First Amendment grounds.]

Environmental Law

Fish & Game 2023
(New)
(Ch. 764) (AB 44)
(Effective 1/1/2023)

Beginning January 1, 2023, creates these two new misdemeanor crimes:

1. Selling, offering for sale, displaying for sale, trading, or distributing for monetary or non-monetary consideration, a fur product.
2. Manufacturing a fur product for sale.

Exempts used fur products, fur products used for religious purposes, fur products used for traditional tribal, cultural, or spiritual purposes by a member of a recognized Native American tribe, and any activity expressly authorized by federal law.

Defines “fur” as any animal skin or part with hair, fleece, or fur fibers attached, either in its raw or processed state. Defines a fur product as an article of clothing or covering for any part of the body, or any fashion accessory, including, but not limited to, handbags, shoes, slippers, hats, earmuffs, scarves, shawls, gloves, jewelry, keychains, toys, trinkets, and home accessories and décor, that is made in whole or in part of fur.

Exempts from the definition of “fur product” the following:

1. a dog or cat fur product, as defined in 19 U.S.C. 1308 as that section read on January 1, 2020; (19 U.S.C. 1308 defines “cat fur” as the pelt or skin of any animal of the species *Felis catus* and it defines “dog fur” as the pelt or skin of any animal of the species *Canis familiaris*);
2. an animal skin that is to be converted into leather;
3. cowhide with hair attached;
4. deerskin, sheepskin, or goatskin with hair attached;
5. the pelt or skin of an animal that is preserved through taxidermy; or
6. a product made pursuant to Fish & Game 3087 (taxidermy) or 4303 (which permits the skin or hide of any deer lawfully taken to be sold, purchased, tanned, or manufactured into articles for sale).

Pursuant to existing Fish & Game 12000(a) and 12002(a), these new misdemeanor crimes are punishable by up to six months in jail and / or by a fine of up to \$1,000.

continued

Subdivision (e) of new Fish & Game 2023 permits a district attorney, city attorney, county counsel, or the Attorney General to bring a civil action to recover a specified civil penalty in lieu of prosecuting a violation of Fish & Game 2023 as a misdemeanor crime. Provides that a first violation, or any violation not within one year of a prior violation, is subject to a civil penalty of up to \$500; a second violation within one year of a previous violation is subject to a civil penalty of up to \$750; and a violation within one year of a second or subsequent violation is subject to a civil penalty of up to \$1,000. Provides that each fur product is a separate violation in a civil action.

[This bill also amends Fish & Game 3039 to add a cross-reference to new Fish & Game 2023, effective January 1, 2023.]

[The legislative history of the bill states that there are a variety of humane alternatives to real fur, such as faux fur that is virtually indistinguishable from real fur and alternative textiles that are just as warm or fashionable. "There is no need for fur in the 21st century and no place for it in a sustainable future."]

Fish & Game 2087
(Amended)
(Ch. 137) (SB 62)
(Effective 1/1/2020)

Limits the exception for the accidental taking of a threatened or endangered species that occurs on a farm or ranch during the course of lawful routine and ongoing agricultural activities, to the accidental take on a farm or ranch during routine agricultural activities "by a person acting as a farmer or rancher, a bona fide employee of a farmer or rancher, or an individual otherwise contracted by a farmer or rancher. "[This is an exception to the crime of unlawfully taking a threatened or endangered species pursuant to the California Endangered Species Act (Fish & Game 2050–2089.26).]

Adds a reporting requirement by providing that when an accidental take is known to occur on a farm or ranch, the person must report the take to the Dep't of Fish & Wildlife.

Extends for four years the sunset date on this section, from January 1, 2020 to January 1, 2024.

Fish & Game 2089.26
(Repealed)
(Ch. 137) (SB 62)
(Effective 1/1/2020)

Repeals the sunset date on the California State Safe Harbor Agreement Program Act (Fish & Game 2089.2–2089.26), thereby continuing it indefinitely. This program is a part of the California Endangered Species Act and it encourages landowners to manage their lands voluntarily, by means of safe harbor agreements, to benefit endangered, threatened, or candidate species without being subject to additional regulatory restrictions as a result of their conservation efforts. Under such an agreement, a landowner voluntarily agrees to implement the Dep’t of Fish & Wildlife’s recommendations that will contribute to the recovery of a listed species, and the landowner receives assurances that he or she can alter or modify property enrolled in the program and return it to the originally agreed baseline conditions at the end of the agreement, even if this means incidentally taking covered species. The species ultimately benefits by making progress towards recovery.

Fish & Game 2207
Fish & Game 2208
Fish & Game 2209
Fish & Game 2210
(New)
(Ch. 768) (SB 313)
(Effective 1/1/2020)

Adds new Article 5 in Chapter 2 of Division 3 of the Fish & Game Code entitled “Circus Cruelty Prevention Act.”

Adds Fish & Game 2209(a) to prohibit sponsoring, conducting, or operating a circus that uses any animal other than a domestic dog, domestic cat, or domestic horse.

Adds Fish & Game 2209(b) to prohibit the exhibition or use of an animal other than a domestic dog, domestic cat, or domestic horse in a circus.

Defines “circus” as a performance before a live audience in which entertainment consisting of a variety of acts, such as acrobats, aerialists, clowns, jugglers, or stunts, is the primary attraction or principal business.

Provides that “circus” does not include a rodeo.

Provides that a violation is subject to a civil penalty of up to \$25,000 for each day a person is in violation, and that a district attorney, city attorney, city prosecutor, the Attorney General, the Dep’t of Fish & Wildlife, or the Dep’t of Food & Agriculture may bring an action for the violation.

Specifies where any money collected is to be deposited, depending upon which entity brings the action. Moneys collected by a district attorney go to that county’s general

continued

fund. If the Dep't of Fish & Wildlife refers the matter to a district attorney, 50 percent of the money collected goes to the Fish and Game Preservation Fund and 50 percent to the county's general fund. Moneys collected by the Attorney General go to the state's General Fund, or are split between the state's General Fund and the Fish and Game Preservation Fund if the Dep't of Fish & Wildlife refers the case to the Attorney General.

Fish & Game 3003.1

Fish & Game 3039

(Amended)

Fish & Game 4001

(New)

Fish & Game 4004

Fish & Game 4005

Fish & Game 4007

Fish & Game 4008

Fish & Game 4009.5

(Amended)

Fish & Game 4030–4043

(Repealed)

Fish & Game 4150

Fish & Game 12002

(Amended)

(Ch. 216) (AB 273)

(Effective 1/1/2020)

The Wildlife Protection Act of 2019.

New Fish & Game 4001 prohibits the trapping of any fur-bearing mammal *for purposes of recreation or commerce* in fur and provides that the raw fur of a fur-bearing mammal otherwise lawfully taken pursuant to the Fish & Game Code or regulations adopted pursuant to it, may not be sold.

Amends Fish & Game 4150 to add a prohibition for the trapping of a non-game mammal *for purposes of recreation or commerce* in fur and provides that the raw fur of a non-game mammal shall not be sold.

Pursuant to existing Fish & Game 12000(a) and 12002(a), these new prohibitions are misdemeanor crimes, punishable by up to six months in jail and/or by a fine of up to \$1,000.

Deletes from Fish & Game 3039 the subdivision that had permitted the purchase or sale of products or handicraft items made from fur-bearing mammals and non-game animals lawfully taken under the authority of a trapping license.

Existing Fish & Game 4000 defines fur-bearing mammals as pine marten, fisher, mink, river otter, gray fox, red fox, kit fox, raccoon, beaver, badger, and muskrat.

Existing Fish & Game 4005 defines "raw fur" as any fur, pelt, or skin that has not been tanned or cured, except that salt-cured or sun-cured pelts are raw furs.

Existing Fish & Game 4150 defines "non-game mammal" as a mammal occurring naturally in California that is not a game mammal, fully protected mammal, or fur-bearing mammal.

continued

Repeals Fish & Game Code section 4030 through 4043, which pertained to fur dealer licenses. These sections had required anyone buying, selling, trading, or dealing in raw furs of fur-bearing mammals or non-game mammals to obtain a fur dealer license. They also prohibited a fur dealer from purchasing a raw fur from a person who does not hold a valid trapping license, fur dealer license, or fur agent license.

Makes a number of conforming changes to other sections amended by the bill.

[In uncodified Section Two of this bill, the Legislature declares a number of things, including the following:

1. The cost of managing and enforcing California's fur trapping program exceeds the revenue generated by the sale of trapping licenses.
2. Prohibiting fur trapping eliminates taxpayer subsidies for the killing of California's native species for the international fur trade, and better protects species.
3. Nothing in this bill is intended to alter existing laws relating to the hunting of fur-bearing and non-game mammals, or to the taking of fur-bearing and non-game mammals found injuring crops or property.]

Fish & Game 3513
(Amended)
(Ch. 349) (AB 454)
(Effective 1/1/2020)

Amends this section that prohibits the unlawful taking or possession of a migratory non-game bird as designated in the federal Migratory Bird Treaty Act (MBTA) to specifically apply to any migratory non-game bird designated in the federal MBTA before January 2017 and any additional migratory non-game bird that may be designated in the federal MBTA after January 1, 2017.

[According to the legislative history of this bill, the Legislature is concerned about the federal government's current interpretation of the federal MBTA, which some in the California Legislature view as reducing protections for migratory birds. This bill is viewed by proponents as a reaffirmation that California has the authority to protect birds within its borders.]

[Pursuant to existing Fish & Game 12002(c), a violation of Fish & Game 3513 is a misdemeanor crime punishable by up to six months in jail and/or by a fine of up to \$5,000.]

Fish & Game 4152
Fish & Game 4153
Fish & Game 4154
(Amended)
Fish & Game 4156
Fish & Game 4157
Fish & Game 4158
(New)
Fish & Game 4181
(Amended)
(Ch. 766) (AB 1254)
(Effective 1/1/2020)

Suspends, until at least January 1, 2025, the hunting, trapping, or taking of bobcats, by adding new Fish & Game 4156 to make it unlawful for a person to hunt, trap, or otherwise take a bobcat. Pursuant to existing Fish & Game 12000(a) and 12002(a), a violation of this new section is a misdemeanor crime punishable by up to six months in jail and/or by a fine of up to \$1,000, or both.

New Fish & Game 4156 sets forth a number of exceptions to the prohibition on hunting, trapping, or taking a bobcat, including these two:

1. The take of a bobcat by a law enforcement officer or licensed veterinarian acting in the course or scope of his or her duty.
2. The take of a bobcat based on the good faith belief that the take was necessary to protect a person from immediate bodily harm from the bobcat if the person notifies the Dep't of Fish & Wildlife (DFW) within five days and at least part of the bobcat is not retained, sold, or removed from the site of the take without authorization from DFW.

New Fish & Game 4157 authorizes the Fish and Game Commission, upon the appropriation of funds by the Legislature, to open, on or after January 1, 2025, a bobcat hunting season in an area determined to require a hunt, after considering a number of specified things, such as the effect a hunt would have on bobcat populations and bobcat wild prey.

New Fish & Game 4158 provides that before a bobcat hunting season could be opened, the DFW is required to develop a bobcat management plan in consultation with specified agencies, organizations, and landowners.

Fish & Game 4181 is amended to add bobcats to the list of animals (elk, bear, beaver, wild pig, wild turkeys, gray squirrels) for which an owner or tenant of land may apply to the DFW for a permit to kill a specified animal that is damaging or destroying land or property.

H&S 25214.1
H&S 25214.2
H&S 25214.3.1
H&S 25214.4
H&S 25214.4.1
(Amended)
(Ch. 379) (SB 647)
(Effective 1/1/2020)

Lowers the allowable lead level in both adult metal-containing jewelry and metal-containing jewelry made for or marketed to children. The lower allowable lead levels in adult jewelry go into effect on June 1, 2020.

Beginning January 1, 2020, lowers the allowable lead levels in children’s metal-containing jewelry to a level below what is permitted for adult jewelry. Expands the definition of “children” by changing it from six years of age and younger, to under 15 years of age, thereby increasing the age group to which the children’s lead and cadmium jewelry standards apply.

Conforms California’s cadmium standard for children’s jewelry to those in the federal Consumer Product Safety Improvement Act (CPSIA).

Specifies additional certification requirements for manufacturers when attesting that jewelry does not contain a prohibited level of lead or cadmium.

[Existing H&S 25214.3.3 is the misdemeanor crime of a manufacturer or supplier of jewelry knowingly and intentionally manufacturing, shipping, selling, offering for sale, or offering for promotional purposes, jewelry containing lead or cadmium in violation of H&S 25214.1–25214.4.2. It continues to be punishable by up to one year in jail and/or by a fine of \$5,000 – \$100,000. Existing H&S 25214.3.4 is the misdemeanor crime of a manufacturer or supplier of jewelry, knowingly and with the intent to deceive, falsifying a document or certificate required to be kept or produced pursuant to H&S 25214.1–25214.4.2. It continues to be punishable by up to one year in jail and/or by a fine of up to \$50,000. Existing H&S 25214.3 continues to provide that other violations of California’s metal-containing jewelry laws are subject to administrative or civil penalties.]

[The legislative history of the bill highlights the toxicity of lead and cadmium, especially when ingested, chewed, or sucked.]

H&S 25249.7
(Amended)
(Ch. 187) (AB 1123)
(Effective 1/1/2020)

Requires each party to a Proposition 65 proceeding (the Safe Drinking and Toxic Enforcement Act of 1986) to serve a copy of the party's brief or petition on the Attorney General if a violation of the Act is alleged or the application of the Act's provisions are at issue, and the case is in the Supreme Court, a Court of Appeal, or the appellate division of a superior court. Requires that service be made on the Proposition 65 coordinator at the service address designated by the Attorney General's Internet website for Proposition 65 enforcement reporting.

[The Safe Drinking Act (H&S 25249.5–25249.14) authorizes local prosecutors, the Attorney General, or individuals to bring an action for a violation of the Act. Existing law requires a private party to notify the Attorney General when an action is filed but does not require notice for subsequent appeals. This bill addresses that problem.]

H&S 25400.10
H&S 25400.11
H&S 25400.16
H&S 25400.17
H&S 25400.18
H&S 25400.19
H&S 25400.20
H&S 25400.22
H&S 25400.25
H&S 25400.26
H&S 25400.27
H&S 25400.28
H&S 25400.30
H&S 25400.36
H&S 25400.45
H&S 25400.46
H&S 25400.47
(Amended)
(Ch. 691) (AB 1596)
(Effective 1/1/2020)

Changes the name of Chapter 6.9.1 in Division 20 of the Health & Safety Code from "Methamphetamine Contaminated Property Cleanup Act of 2005" to "Methamphetamine or Fentanyl Contaminated Property Cleanup Act."

Adds fentanyl contaminated properties to this existing cleanup act to ensure that properties contaminated with fentanyl are safely decontaminated before being rented or sold. By adding fentanyl to this act, local health officials will have the authority to post warning notices on the property, inspect the property, and issue orders prohibiting the use or occupancy of the property, just as existing law provides for methamphetamine contaminated properties. An owner of a fentanyl contaminated property will be subject to all laws that previously applied only to owners of methamphetamine contaminated properties, including the following:

1. the requirement to retain a remediation firm to clean up the contamination; and
2. if the owner fails to initiate or complete remediation, a local health officer, a city, or a county may clean up the property or seek a court order to require the owner to comply. If a city or county cleans up the property, the owner is liable for all costs.

Fentanyl is a synthetic opioid that is 50–100 times more potent than morphine.

continued

Provides that a property contaminated by fentanyl laboratory activity is safe for human occupancy only if the level of fentanyl on an indoor surface is below the detection level. Also provides that this below-the-detection-level standard will become inoperative on the effective date that a state or federal agency adopts a health-based target remediation standard for fentanyl to determine when a property contaminated by fentanyl laboratory activity is safe for human occupancy. H&S 25400.10 is amended to specifically state that there are currently no statewide standards for determining when the site of a closed fentanyl drug lab has been successfully remediated.

Public Res. C. 5008.10
(New)
(Ch. 761) (SB 8)
(Effective 1/1/2020)

Creates these new infraction crimes related to smoking on state beaches or in state parks:

1. Smoking on a state beach or in a unit of the state park system (does not apply to paved roadways or parking facilities).
2. Disposing of a used cigar or cigarette waste on a state beach or in a state park system unless the disposal is made in an appropriate waste receptacle.

All of these new infractions are punishable by a fine of up to \$25.

Requires the posting of signs at strategic locations. Prohibits the enforcement of the smoking infractions until signs are posted.

Provides that “smoking” includes an electronic smoking device that creates an aerosol or vapor, or the use of any oral smoking device for the purpose of circumventing a prohibition on smoking.

Provides that a “unit of the state park system” means an area specified in Public Res. C. 5002. Public Res. C. 5002 provides as follows: “All parks, public camp grounds, monument sites, landmark sites, and sites of historical interest established or acquired by the State, or which are under its control, constitute the State Park System except the sites and grounds known as the State Fair Grounds in the City of Sacramento, and Balboa Park in the City of San Diego.”

Public Res. C. 42372
(New)
(Ch. 687) (AB 1162)
(Effective 1/1/2020)

Creates new Chapter 6.1 in Part 3 of Division 30 of the Public Resources Code entitled "Small Plastic Bottles."

Commencing January 1, 2023, for a lodging establishment with more than 50 rooms, and January 1, 2024, for lodging establishments with 50 rooms or fewer, prohibits a lodging establishment (defined as a hotel, motel, resort, bed and breakfast inn, or vacation rental) from providing a small plastic bottle containing shampoo, hair conditioner, or bath soap, in a sleeping room or bathroom. However, permits such small plastic bottles to be provided at the request of a guest at a place other than a sleeping room or bathroom. (Thus, a hotel could simply keep the small plastic bottles at the front desk and hand them out upon request.)

Defines "small plastic bottle" as a plastic bottle or container with a capacity of fewer than six ounces that is intended to be non-reusable.

Encourages the use of bulk dispensers of personal care products.

Authorizes a district attorney, county counsel, city attorney, or the Attorney General to bring an action to impose a civil penalty of \$500 for a first violation and \$2,000 for a second or subsequent violation.

Also authorizes a local agency with authority to inspect sleeping accommodations in a lodging establishment to issue citations for violations of this new section, but sets forth a different penalty scheme. Provides that a first violation is subject to a written warning only. A second or subsequent violation is subject to a penalty of \$500 for each day the establishment is in violation, but not more than \$2,000 annually.

Provides that a city or county that, before January 1, 2020, passed an ordinance, resolution, or regulation relating to personal care products in plastic bottles provided at lodging establishments may enforce that ordinance, resolution, or regulation if it is at least as stringent as, and not in conflict with, this new section. Prohibits a city or county, on and after January 1, 2020, from passing an ordinance, resolution, or regulation relating to personal care products in plastic bottles provided at lodging establishments.

Evidence Code

Evidence C. 782.1
(Repealed & Added)
(Ch. 141) (SB 233)
(Effective 1/1/2020)

Repeals Evidence C. 782.1, and adds a new version of Evidence C. 782.1 that prohibits the admission into evidence of the possession of a condom in a case involving a violation of P.C. 372, 647(a), 647(b), or 653.22, if the offense is related to prostitution. (P.C. 372 is the crime of maintaining a public nuisance, P.C. 647(a) is the crime of committing a lewd act in public, P.C. 647(b) is the crime of prostitution, and P.C. 653.22 is the crime of loitering with the intent to commit prostitution.)

The old version of Evidence Code 782.1 set forth the procedure for the possession of condoms to be introduced as evidence in a P.C. 647 or 653.22 case. The prosecutor was required to make a written motion with an offer of proof in order to get a hearing on whether evidence of condom possession should be admitted. If the court found the offer of proof sufficient, the court would hold a hearing. If the court found the condom evidence relevant and not inadmissible pursuant to Evidence C. 352, the court “may” make an order stating what evidence is admissible. The court was not required to admit the condom evidence.

New Evidence C. 782.1 prohibits condom possession from being admitted into evidence in a prosecution for P.C. 372, 647(a), 647(b) or 653.22, if the offense is related to prostitution. (P.C. 647(b) and 653.22 crimes necessarily involve prostitution, but P.C. 372 and 647(a) crimes do not.) This prohibition apparently applies not only to a defendant who is a prostitute and charged with a prostitution-related crime, but also to a defendant who is a purchaser of prostitution services, if the prosecution involves one of the specified crimes.

[This bill also amends Evidence C. 1162 to expand the list of crimes that trigger immunity from prosecution for prostitution when a person who was a victim of, or witness to, a specified crime, engages in an act of prostitution at or around the time he or she was a victim or witness. See Evidence C. 1162, below.]

[New P.C. 647.3 *prohibits the arrest* of person for a misdemeanor drug crime, or for a violation of P.C. 372, 647(a), 647(b), or 653.22 if related to an act of prostitution,

continued

if that offense is related to the crime the person is reporting or if the person was engaged in that offense at or around the time he or she was the victim of or witness to the crime being reported.]

[The following is the list of applicable reported crimes: a P.C. 1192.7(c) serious felony, felony P.C. 245(a) assault, P.C. 273.5 domestic violence, P.C. 518 extortion, P.C. 236.1 human trafficking, P.C. 243.4(a) sexual battery, or P.C. 646.9 stalking. P.C. 647.3 also provides that the possession of condoms in any amount “shall not provide a basis for probable cause for arrest” for a violation of P.C. 372, P.C. 647(a), P.C. 647(b), or P.C. 653.22 if the offense is related to prostitution. See P.C. 647.3 in the Penal Code section of this digest for more information.]

[This bill codifies the practice of the San Francisco District Attorney’s Office of not filing prostitution charges against victims or witnesses of specified crimes. According to the legislative history of this bill, its purpose is to help “sex workers” feel safe reporting crimes and carrying condoms. The legislative history claims that “the criminalization of prostitution results in sex workers largely not trusting law enforcement due to fear that they will be arrested or mistreated ... Research is clear that sex workers must be able to carry condoms without fear that they will be confiscated or used to criminalize them to avoid exacerbating an already unsafe work environment or worsening our public health crisis.”]

[Interestingly, both the California District Attorneys Association (CDAA) and the California Public Defenders Association (CPDA) opposed the bill. CDAA opposed it because it is bad public policy and bad precedent to legislate what constitutes probable cause for an arrest, to legislate what is and what is not evidence in a criminal case, and to provide immunity from prosecution without a consideration of the individual circumstances of each case. CPDA opposed the amendment to Evidence C. 782.1 because it bans the use of condoms as evidence even in a case where a prostitute is wrongfully accusing a person of a crime such as robbery. CPDA was concerned that a defendant would not be able to use the possession of a condom as evidence that the accuser is in fact a prostitute.]

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[Note that Section 28(f)(2) of Article One of the California Constitution (“Right to Truth-in-Evidence”) provides that relevant evidence shall not be excluded in a criminal proceeding except as provided by a statute enacted by a two-thirds vote in each house of the Legislature. This bill did receive a two-thirds vote in both houses: 54 yes votes in the Assembly (54 out of 80) and 30 yes votes in the Senate (30 out of 40).]

Evidence C. 1038
Evidence C. 1038.1
Evidence C. 1038.2
(Amended)
Evidence C. 1038.3
(New)
(Ch. 197) (AB 1735)
(Effective 1/1/2020)

Expands the scope of the Human Trafficking Caseworker-Victim Privilege by permitting a victim’s current human trafficking caseworker to claim the privilege even if he or she was not the victim’s caseworker at the time the confidential communication was made.

Clarifies that “communication” includes communications made orally, in writing, or “otherwise conveyed.” Adds that “confidential communication” includes information about the victim’s children and the relationship of the victim to the human trafficker.

Eliminates the sentence in Evidence C. 1038.1(a) that had authorized a court to compel disclosure of a human trafficking caseworker-victim confidential communication if the victim is either dead or not the complaining witness in a criminal action against the perpetrator. Expands the definition of “holder of the privilege” to include the personal representative of the victim if the victim is deceased.

Expands the list of topics about which human trafficking caseworkers must be trained to add systems of oppression, role playing, intersections of human trafficking and other crimes, client and system advocacy, and connecting to local, regional, and national human trafficking coalitions.

Revises the definitions of “confidential communication,” “holder of the privilege,” “human trafficking caseworker,” and “victim,” and adds a definition for “human trafficking victim service organization.”

Creates new Evidence C. 1038.3 to provide that nothing in these sections shall be construed as limiting any obligation to report instances of child abuse as required by existing P.C. 11166.

Evidence C. 1043
(Amended)
(Ch. 585) (AB 1600)
(Effective 1/1/2020)

Shortens the notice requirements for the filing of a motion to discover peace officer personnel records (i.e., a *Pitchess* motion) in a criminal case from at least 16 court days before the hearing to at least 10 court days before the hearing. Requires that an opposition brief be filed at least five days before the hearing and any reply brief at least two court days before the hearing.

Adds that upon receipt of a motion for peace officer personnel records, the governmental agency must immediately notify the officer whose records are sought.

According to the legislative history of the bill, its purpose is to shorten the time period for holding a *Pitchess* hearing because misdemeanor defendants have a right to a trial within 30 days and because the 16-court day notice requirement is longer than for other motions in criminal cases. Opponents of the bill argued that 16 court days are necessary for city attorneys to be able to search for the requested records, prepare a written response, and properly prepare for a *Pitchess* hearing.

[This bill also amends C.C.P. 1005 to make existing notice requirements for a *Pitchess* motion (at least 16 court days before the hearing), applicable only in civil cases. The bill also amends Evidence C. 1047 to expand the discovery of peace officer personnel records relating to supervisory officers. See Evidence C. 1047, below.]

Evidence C. 1047
(Amended)
(Ch. 585) (AB 1600)
(Effective 1/1/2020)

Expands the types of peace officer supervisory personnel records that are subject to disclosure pursuant to a *Pitchess* motion. New subdivision (b) makes the records of a supervisory officer subject to disclosure if the supervisor had direct oversight of an officer and issued command directives or had command influence over the circumstances at issue, and if the officer under supervision was present during the arrest, had contact with the party seeking disclosure from the time of the arrest until the time of booking, or was present at the time the conduct at issue is alleged to have occurred within a jail facility.

Existing language in Evidence C. 1047(a) continues to provide the general rule that the personnel records of a supervisory officer who was not present during arrest or had no contact with the party seeking disclosure from the

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time of arrest until the time of booking, or who was not present at the time the conduct at issue is alleged to have occurred within a jail facility, are not subject to disclosure. New subdivision (b) is an exception to the general rule, and its language begins with “Notwithstanding subdivision (a). . . .”

Evidence C. 1162
(Amended)
(Ch. 141) (SB 233)
(Effective 1/1/2020)

Expands the list of crimes that trigger immunity from prosecution for prostitution when a person who was a victim of, or witness to, a specified crime engages in an act of prostitution at or around the time he or she was a victim of or witness to a specified crime. Previously, this section applied only to a victim of, or witness to, extortion, stalking, or a P.C. 667.5(c) violent felony. Now, it applies to P.C. 1192.7(c) serious felonies, P.C. 245(a) assault, P.C. 273.5 domestic violence, P.C. 518 extortion, P.C. 236.1 human trafficking, P.C. 243.4(a) sexual battery, and P.C. 646.9 stalking. Evidence that a victim of, or witness to, any of these specified crimes has engaged in an act of prostitution at or around the time he or she was the victim of or witness to the crime, is *not* admissible in a separate prosecution of the victim or witness for the act of prostitution.

[Note that Evidence C. 1162 does not contain any requirement that a victim or witness cooperate with law enforcement or testify at a trial. But it would seem reasonable that a mere allegation that a person is a victim or witness, without more, should not trigger immunity from prosecution for prostitution.]

[This bill also amends Evidence C. 782.1 to prohibit the admission into evidence of condom possession in a prosecution for P.C. 372 maintaining a public nuisance, P.C. 647(a) lewd act in public, P.C. 647(b) prostitution, or P.C. 653.22 loitering with the intent to commit prostitution, if the offense is related to prostitution. See Evidence C. 782.1, above.]

P.C. 647.3 is added to *prohibit the arrest* of person for a misdemeanor drug crime, or for a violation of P.C. 372, 647(a), 647(b), or 653.22 if related to an act of prostitution, if that offense is related to the crime the person is reporting or if the person was engaged in that offense at or around the time he or she was the victim of or witness to the crime being reported.

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[The following is the list of applicable reported crimes: a P.C. 1192.7(c) serious felony, felony P.C. 245(a) assault, P.C. 273.5 domestic violence, P.C. 518 extortion, P.C. 236.1 human trafficking, P.C. 243.4(a) sexual battery, or P.C. 646.9 stalking. P.C. 647.3 also provides that the possession of condoms in any amount “shall not provide a basis for probable cause for arrest” for a violation of P.C. 372, P.C. 647(a), P.C. 647(b), or P.C. 653.22 if the offense is related to prostitution. See P.C. 647.3 in the Penal Code section of this digest for more information.]

[This bill codifies the practice of the San Francisco District Attorney’s Office of not filing prostitution charges against victims or witnesses of specified crimes. According to the legislative history of this bill, its purpose is to help “sex workers” feel safe reporting crimes and carrying condoms. The legislative history claims that “the criminalization of prostitution results in sex workers largely not trusting law enforcement due to fear that they will be arrested or mistreated ... Research is clear that sex workers must be able to carry condoms without fear that they will be confiscated or used to criminalize them to avoid exacerbating an already unsafe work environment or worsening our public health crisis.”]

[Note that Section 28(f)(2) of Article One of the California Constitution (“Right to Truth-in-Evidence”) provides that relevant evidence shall not be excluded in a criminal proceeding except as provided by a statute enacted by a two-thirds vote in each house of the Legislature. This bill did receive a two-thirds vote in both houses: 54 yes votes in the Assembly (54 out of 80) and 30 yes votes in the Senate (30 out of 40).]

Family Code

Family Code 6380
Family Code 6381
Family Code 6383
Family Code 6404
Family Code 6454
(Amended)
(Ch. 115) (AB 1817)
(Effective 1/1/2020)

Makes a technical, non-substantive amendment to change the name of the Domestic Violence Restraining Order System to the “California Restraining and Protective Order System.” [This bill makes a number of other technical amendments to numerous provisions of the Family Code. The legislative history describes the restraining order name change as an update in terminology. The system was renamed several years ago but statutes referring to it were not updated until now.]

Food and Agricultural Code

Food & Ag. C. 30503.5
Food & Ag. C. 30526
(New)
(Ch. 430) (AB 588)
(Effective 1/1/2020)

Requires an animal shelter or rescue group that knows a dog, at the age of four months or older, bit a person and broke the skin thus requiring a state-mandated bite quarantine, to do two things before selling, giving away, or releasing the dog:

1. disclose in writing to the person to whom the dog is sold, given, or released, the dog's known bite history and the circumstances related to the bite; and
2. obtain a signed acknowledgment from the buyer / receiver.

Provides that a violation is punishable by a *civil* fine of up to \$500, to be imposed by the city or county in which the animal shelter or rescue group is located.

Government Code

Gov't C. 6253
(Amended)
(Ch. 695) (AB 1819)
(Effective 1/1/2020)

Permits a person who inspects a public record pursuant to the California Public Records Act (CPRA) on the premises of the state or local agency to use his or own equipment to photograph, copy, or reproduce the record in a manner that does not require the equipment to make physical contact with the record. Prohibits an agency from charging any fee or costs to a requestor who uses his or her own equipment. (For example, a requestor could use his or her cell phone to make a copy of a document instead of paying the agency for a hard copy of the document.)

Provides that a requestor may be prohibited from using his or her own equipment if the means of copying or reproduction would cause damage to the record being inspected, or would result in unauthorized access to the agency's computer systems or secured networks by using software, equipment, or any other technology capable of accessing, altering, or compromising the agency's electronic records.

Authorizes an agency to impose any reasonable limits on the use of the requestor's equipment that are necessary to protect the safety of the records or to prevent the copying of records from being an unreasonable burden to the orderly function of the agency and its employees. Also authorizes the agency to impose any limit that is necessary to maintain the integrity or, or ensure the long-term preservation of, historic or high-value records.

Gov't C. 6254
(Amended)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Corrects a drafting error in last year's AB 748, which amended the California Public Records Act to expand public access to a video or audio recording (e.g., a law enforcement body-worn camera recording) that relates to a critical incident, defined as the discharge of a firearm at a person by a peace officer or custodial officer, or an incident in which the use of force by a peace officer or custodial officer results in death or great bodily injury. AB 748 permits a law enforcement agency to withhold access for up to 45 days or beyond. Subdivision (f)(4)(B)(iii) was missing some language due to a drafting error and appeared to provide that a video or audio recording would be disclosed even if the law enforcement agency had determined that disclosure would substantially interfere with an active

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criminal or administrative investigation. AB 94 fixes this drafting error by adding the missing language. The sentence now reads: "If disclosure ... would substantially interfere with an active criminal or administrative investigation, the agency shall provide in writing to the requestor the specific basis for the agency's determination that disclosure would substantially interfere with the investigation, and provide the *estimated date for the disclosure of the video or audio recording.*"

Gov't C. 7286
(New)
(Ch. 285) (SB 230)
(Effective 1/1/2020)

Creates new Chapter 17.4 in Division 7 of Title 1 of the Government Code entitled "Law Enforcement Use of Force Policies."

Requires every law enforcement agency, by January 1, 2021, to maintain a policy that provides a minimum standard on the use of force and to make the policy accessible to the public. Requires the policy to include 20 items, including requiring that officers use de-escalation techniques, crisis intervention tactics, and other alternatives to force when feasible; requiring that an officer use only a level of force that is proportional to the seriousness of the offense or threat; requiring officers to report excessive force to a superior officer; specific guidelines regarding situations in which an officer may or may not draw a firearm or point a firearm; requiring officers to consider potential risks to bystanders before discharging a firearm; requiring an officer to intercede when seeing another officer use excessive force; and specific guidelines under which the discharge of a firearm at or from a moving vehicle may or may not be permitted.

Defines "deadly force" as force reasonably anticipated to create a substantial likelihood of causing death or great bodily injury. Defines "feasible" as reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Uncodified Section One of this bill sets forth a number of findings and declarations by the Legislature including these:

1. "The highest priority of California law enforcement is safeguarding the life, dignity, and liberty of all persons, without prejudice to anyone."

continued

2. "Law enforcement officers shall be guided by the principle of reverence for human life in all investigative, enforcement, and other contacts between officers and members of the public."
3. "A law enforcement agency's use of force policies and training may be introduced as evidence in proceedings involving an officer's use of force. The policies and training may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably, but shall not be considered as imposing a legal duty on the officer to act in accordance with such policies and training."

[This bill also creates new P.C. 13519.10, which requires the Commission on Peace Officer Standards and Training (POST) to implement a course for the regular and periodic training of law enforcement officers in the use of force, and to develop minimum use of force guidelines for adoption by California law enforcement agencies. See P.C. 13519.10 in the Penal Code section of this digest.]

[See also the amendments to P.C. 196 and 835a (AB 392) in the Penal Code section of this digest, about the legal standards for law enforcement use of deadly force.]

<p>Gov't C. 8280 Gov't C. 8281 (Amended) Gov't C. 8281.5 (New) Gov't C. 8282 Gov't C. 8283 Gov't C. 8284 Gov't C. 8286 Gov't C. 8287 Gov't C. 8288 (Amended) Gov't C. 8290.5 (New) Gov't C. 8291 Gov't C. 8292 Gov't C. 8293 Gov't C. 8294 Gov't C. 8295 Gov't C. 8296 (Amended) (Ch. 25) (SB 94) (Effective 6/27/2019)</p>	<p>Creates, within the California Law Revision Commission, the "Committee on Revision of the Penal Code."</p> <p>Provides that the Committee on Revision of the Penal Code consists of one Member of the Senate appointed by the Senate Committee on Rules, one member of the Assembly appointed by the Speaker of the Assembly, and five members appointed by the Governor. Prohibits a member of the Committee on Revision of the Penal Code from being a member of the California Law Revision Commission.</p> <p>New Gov't C. 8290.5 requires the Committee on Revision of the Penal Code to study and make recommendations on revision of the Penal Code to achieve all of these objectives:</p> <ol style="list-style-type: none"> 1. "Simplify and rationalize the substance of criminal law;" 2. "Simplify and rationalize criminal procedures;" 3. Establish alternatives to incarceration that will aid in the rehabilitation of offenders; and 4. Improve the system of parole and probation. <p>Permits the committee to recommend "adjustments to the length of sentence terms" by considering factors such as the protection of the public, the severity of the offense, the rate of recidivism, the availability and success of alternatives to incarceration, and empirically significant disparities between individuals convicted of an offense and individuals convicted of similar offenses.</p> <p>Provides that the "approval by the [Law Revision] commission of any recommendations by the committee [on Revision of the Penal Code] is not required."</p>
<p>Gov't C. 8669.1 Gov't C. 8669.2 Gov't C. 8669.3 Gov't C. 8669.4 Gov't C. 8669.5 Gov't C. 8669.6 Gov't C. 8669.7 (New) (Ch. 621) (AB 1117) (Effective 1/1/2020)</p>	<p>Creates new Article 22 in Chapter 7 of Division 1 of Title 2 of the Government Code entitled "Law Enforcement Peer Support and Crisis Referral Services Program."</p> <p>Authorizes a local or regional law enforcement agency to establish a peer support and crisis referral program that would provide a network of peer representatives who are available to come to the aid of their fellow employees on a broad range of emotional or professional issues, including substance abuse, critical incident stress, family issues, grief support, legal issues, line-of-duty deaths, serious injury or illness, suicide, victims of crime, and workplace issues. The</p>

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program would assist both law enforcement officers and employees of a law enforcement agency.

Makes confidential the communications between law enforcement personnel and a peer support team member made while the peer support team member is providing peer support. Also makes confidential a communication to a crisis hotline or crisis referral service. However, a number of exceptions to confidentiality are specified. Provides that a confidential communication may be disclosed under the following circumstances:

1. "In a criminal proceeding;"
2. When a peer support team member refers law enforcement personnel to crisis referral services;
3. During a consultation between two peer support team members;
4. If the peer support team member reasonably believes that disclosure is necessary to prevent death, substantial bodily harm, or the commission of a crime;
5. If law enforcement personnel expressly agrees in writing that the confidential communication may be disclosed; or
6. "If otherwise required by law."

Permits a crisis hotline or crisis referral service to disclose confidential information communicated by law enforcement personnel, in order to prevent "reasonably certain death, substantial bodily harm, or commission of a crime."

Requires a peer support team member to complete a training course on peer support approved by the law enforcement agency in order to be eligible for confidentiality protections.

Gov't C. 12127.8
(New)
(Ch. 831) (AB 1563)
(Effective 1/1/2020)

Authorizes the Secretary of State to work with the California Census Office and the California Complete Count Committee to promulgate, by February 1, 2020, a "California Census Bill of Rights and Responsibilities."

Requires the Census Bill of Rights to affirm the rights of all Californians to all of the following:

1. to participate in the federal decennial census free of threat or intimidation;
2. to confidentiality of the information provided on the census form;

continued

3. to respond to the census by means of their chosen modality—electronically, on paper, or by telephone;
4. to request language assistance; and
5. to verify the identity of a census worker.

[This bill also creates new P.C. 529.6, which contains two misdemeanor crimes:

1. Falsely representing one’s self as a census taker with the intent to interfere with the census or “to obtain information or consent to an otherwise unlawful search and seizure.”
2. Falsely assuming some or all of the activities of a census taker with the intent to interfere with the census or “to obtain information or consent to an otherwise unlawful search and seizure.” See the Penal Code section of this digest for more information.]

Gov’t C. 12533
(New)
(Ch. 97) (AB 669)
(Effective 1/1/2020)

Authorizes the Attorney General to accept an assurance of voluntary compliance in lieu of a stipulated judgment, in order to resolve an action brought in the name of the people of the State of California. Requires that the assurance of voluntary compliance be filed with the court and provides that it is subject to the approval of the court. Also provides that the assurance of voluntary compliance is enforceable in the same manner, and with the same remedies, and to the same extent, as a stipulated judgment and permanent injunction.

[The Attorney General already has the authority to resolve charitable trust cases with an assurance of voluntary compliance (AVC.) This bill permits the Attorney General to use AVCs in other types of cases. According to the legislative history of this bill, more than half of U.S. states authorize their attorneys general to settle cases using an assurance of voluntary compliance and this method is especially helpful in multi-state consumer protection and environmental law cases.]

<p>Gov't C. 12820 Gov't C. 12821 Gov't C. 12822 Gov't C. 12823 Gov't C. 12824 Gov't C. 12825 Gov't C. 12826 Gov't C. 12827 Gov't C. 12828 Gov't C. 12829 Gov't C. 12830 Gov't C. 12831 Gov't C. 12832 Gov't C. 12833 Gov't C. 12834 Gov't C. 12835 Gov't C. 12836 (New) Gov't C. 12838 (Amended) (Ch. 25) (SB 94) (Effective 6/27/2019)</p>	<p>Creates new Article One in Chapter One of Part 2.5 of Division Three of Title Two of the Government Code, entitled "Department of Youth and Community Restoration."</p> <p>Moves the Division of Juvenile Justice and the Board of Juvenile Hearings from the Dep't of Corrections and Rehabilitation (CDCR) and reestablishes them as the Dep't of Youth and Community Restoration under the California Health and Human Services Agency. Requires the transfer process to start on July 1, 2019 and be completed by July 1, 2020.</p> <p>Provides that the Division of Juvenile Justice is referred to as the "predecessor entity." Provides that any reference to the Division of Juvenile Facilities, the Division of Juvenile Justice, or the Dep't of the Youth Authority in any statute or regulation is a reference to the new Dep't of Youth and Community Restoration, unless the context clearly requires otherwise.</p>
<p>Gov't C. 12950.1 (Amended) (Ch. 215) (SB 778) (Effective 8/30/2019)</p> <p style="padding-left: 40px;">and</p> <p style="padding-left: 40px;">(Amended) (Ch. 722) (SB 530) (Effective 1/1/2020)</p>	<p>SB 778 amends subdivision (a) to extend the deadline, from January 1, 2020 to January 1, 2021, for an employer with five or more employees to get into compliance with sexual harassment training requirements for employees. Subdivision (a) continues to require that an employer with five or more employees provide at least two hours of classroom or interactive training and education regarding sexual harassment to supervisory employees, and at least one hour of classroom or interactive training and education to non-supervisory employees. Continues to provide that this training must be provided once every two years and clarifies that if training is provided in 2019, training is not required again for two years.</p> <p>SB 530 makes additional amendments to Gov't C. 12950.1 relating to sexual harassment training in the construction industry. It also creates new Labor Code 107.5 to require the Division of Labor Standards Enforcement to develop recommendations for an industry-specific harassment and discrimination prevention policy and training standard for use by employers in the construction industry.</p>

Gov't C. 13953
(Amended)
(Ch. 592) (SB 375)
(Effective 1/1/2020)

Extends the deadline, from three years to seven years, for a crime victim to file an application for compensation with the California Victim Compensation Board (CalVCB). (The restitution fines that convicted defendants pay are the source of funding for California's Victims of Crime program.) Previously, an application for compensation had to be filed within three years of the date of the crime, within three years of the victim reaching age 21, or within three years of discovering that an injury or death had been sustained as a direct result of crime. These time frames are all increased to seven years. Retains the provision that permits CalVCB to grant an extension of time, if good cause is shown.

Deletes the sentence that had permitted a compensation application based on a crime specified in P.C. 801.1 (P.C. 261, 286, 287, 288, 288.5, 289, 289.5, or former P.C. 288a) to be filed at any time before the victim's 28th birthday, because of the amendment that permits an application for compensation for any covered crime or loss to be filed within seven years of the victim's 21st birthday (i.e., at any time before the victim's 28th birthday).

Gov't C. 13957
(Amended)
(Ch. 572) (AB 415)
and
(Ch. 575) (AB 629)

Adds that the maximum of \$2,000 a crime victim may receive from the California Victim Compensation Board (CalVCB) for relocation expenses may include the costs of temporary housing for any pets belonging to the victim.

Gov't C. 13957.5
(Amended)
(Ch. 575) (AB 629)
(Effective 1/1/2020)

Authorizes CalVCB to pay compensation equal to the loss of income or support that a P.C. 236.1 (human trafficking) victim incurred as a direct result of the victim's deprivation of liberty. Gov't C. 13957.5 is amended to provide that if the victim is not compensated from any other source, CalVCB may pay the victim the value of the victim's labor under California law for up to 40 hours per week, but not to exceed \$10,000 per year for up to two years (A \$20,000 maximum payout.)

Requires CalVCB, by July 1, 2020, to adopt guidelines that allow it to rely on evidence other than official employment documentation in considering and approving an application for loss of income or support, including a statement under penalty of perjury from the victim, or evidence from a human trafficking caseworker, a licensed attorney, or a witness to the circumstances of the crime.

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Provides that if the victim is a minor at the time of the application for compensation, CalVCB shall distribute payment when the minor reaches age 18.

Gov't C. 15160
(Amended)
(Ch. 789) (AB 1747)
(Effective 1/1/2020)

Prohibits any subscriber to the CLETS system (California Law Enforcement Telecommunications System) from using information *other than criminal history information* that is transmitted through the system, for immigration enforcement purposes, as defined in existing Gov't C. 7284.4. Gov't C. 7284.4 is part of the California Values Act (Gov't C. 7284–7284.12), which generally prohibits California law enforcement officers from investigating, detaining, or arresting a person for immigration violations. Subdivision (f) of Gov't C. 7284.4 defines “immigration enforcement” as “any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person’s presence in, entry, or reentry to, or employment in, the United States.”

Also prohibits any use of CLETS for the purpose of investigating violations of 8 U.S.C. 1325 if a violation of 8 U.S.C. 1325 is the only criminal history in a person’s record. (8 U.S.C. 1325 is the federal crime of unlawful entry into the United States, unlawful attempted entry, or marrying for the purpose of evading immigration laws.)

Beginning January 1, 2021, requires that any inquiry for information other than criminal history information submitted through CLETS must include a reason for the initiation of the inquiry.

Beginning January 1, 2021, permits the Attorney General to conduct investigations, inspections, and audits to monitor compliance with these new prohibitions.

[The Legislative history of this bill speculates that ICE (Immigration & Customs Enforcement) is accessing non-criminal personal information about undocumented Californians through CLETS. The Legislative history claims that “reports indicate that ICE has managed to get access to information in certain California databases and is using them to pursue undocumented California residents. In

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particular, it appears that ICE may be regularly mining information from the Department of Motor Vehicles' (DMV) records, including information about undocumented immigrants who obtained driver's licenses under AB 60. *It may be* that ICE is accessing non-criminal personal information about undocumented Californians through the California Law Enforcement Telecommunications System (CLETS), as well." (Emphasis added.)]

[Law enforcement opponents of this bill pointed out that similar provisions restricting data access were removed from the California Values Act (SB 54) during negotiations in 2017. Instead of banning the sharing of information, existing Gov't C. 7284.8(b) requires the Attorney General to publish guidance, audit criteria, and training recommendations to ensure "that databases are governed in a manner that limits the availability of information therein to the fullest extent practicable and consistent with federal and state law, to anyone or any entity for the purpose of immigration enforcement."]

Gov't C. 15925
Gov't C. 15926
(New)
(Ch. 626) (AB 1296)
(Effective 1/1/2020)

Authorizes an agency that is a member of the Joint Enforcement Strike Force on the Underground Economy to request information from the Employment Development Department, the California Dep't of Tax & Fee Administration, and the Franchise Tax Board.

Requires these three agencies to fully and timely provide intelligence data, including confidential tax and fee information, documents, information, complaints, reports, analysis, findings, or lead referrals in order for the requesting agency to determine if an investigation is warranted, to conduct an investigation, to determine restitution owed to the state, to prosecute violations, and to conduct data analytics.

Requires the Dep't of Justice (DOJ), at a minimum, to maintain the two multiagency Tax Recovery in the Underground Economy Criminal Enforcement Program investigative teams, formerly known as the Tax Recovery and Criminal Enforcement Task Force, in Sacramento and Los Angeles. Requires these investigative teams, along with DOJ, the Employment Development Department, the California Department of Tax & Fee Administration, and the Franchise Tax Board, to continue their collaboration for the

continued

recovery of lost revenues to the state by investigating and prosecuting criminal offenses in the state's underground economy, including, but not limited to, tax-related and fee-related crimes such as tax evasion and tax fraud.

[Pursuant to Unemployment Ins. C. 329, the strike force is composed of representatives of DOJ, the Employment Development Department, the Dep't of Consumer Affairs, the Dep't of Industrial Relations, the California Dep't of Tax & Fee Administration, the Franchise Tax Board, and the Dep't of Insurance. Its mission is to combat the underground economy by engaging in enforcement activities regarding labor, tax, insurance, and licensing law violators operating in the underground economy.]

[This bill also amends Unemployment Ins. C. 329 and 1095.]

Gov't C. 27297.6
Gov't C. 27387.1
(Amended)
(Ch. 165) (AB 1106)
(Effective 1/1/2020)

Extends the sunset date on these sections from January 1, 2020 to January 1, 2030, so that the existing versions of the Los Angeles County's Homeowner Notification Program remain in effect for 10 more years. These two Gov't C. sections apply only to Los Angeles County. Pursuant to the Homeowner Notification Program, the Los Angeles County Recorder's Office mails notices to homeowners when specified documents are recorded against their property. The notification provides homeowners with a copy of the recorded document and information about how to contact the program if fraud is suspected.

The current version of Gov't C. 27297.6 applies to deeds, quitclaim deeds, deeds of trust, notices of default, and notices of sale, whereas the version that would be effective 10 years from now in 2030 applies only to deeds, quitclaims deeds, and deeds of trust.

The current version of Gov't C. 27387.1 includes a provision that permits the Los Angeles County Recorder to collect a fee of up to seven dollars (in addition to any other recording fee) from a party filing a deed, quitclaim deed, deed of trust, notice of default, or notice of sale, unless the party is a government entity. The version effective in 2030 does not permit an additional fee to be charged when a notice of default or notice of sale is filed. According to the legislative history of the bill, the additional fees help Los Angeles County provide counseling and assistance to homeowners.

Gov't C. 27491.42
(New)
(Ch. 614) (AB 620)
(Effective 1/1/2020)

Requires coroners to notify the parent or responsible adult about the importance of taking tissue samples when a child between the age of one and 18 suffers a “sudden unexplained death in childhood.” Defines SUDC as the sudden death of a child age one or older but under age 18 that is unexplained by the history of the child and where a thorough post-mortem examination fails to demonstrate an adequate cause of death.

[Existing Gov't C. 27491.4–27491.41 define Sudden Infant Death Syndrome (SIDS) and require an autopsy to be performed.]

[Opponents of the bill argued that unlike SIDS, SUDC is not yet a valid syndrome within the scientific community and no standard protocols exist for it.]

Gov't C. 68088
(Amended)
(Ch. 418) (AB 242)
(Effective 1/1/2020)

Authorizes the Judicial Council to develop training on implicit bias and requires court staff that interact with the public to complete two hours of implicit bias training every two years starting January 1, 2022. Uncodified Section One of this bill defines “implicit biases” as positive or negative associations that affect beliefs, attitudes, and actions towards other people. Requires that the course developed by the Judicial Council include a variety of topics, including these: examples of how implicit bias affects the perceptions, judgments, and actions of judges, subordinate judicial officers, and court staff; the administration of implicit association tests to increase awareness of one’s unconscious biases; and strategies for reducing the impact of implicit bias on parties before the court, members of the public, and court staff.

This bill also adds B&P 6070.5 to require the State Bar to adopt regulations to add the following to the mandatory continuing legal education (MCLE) requirements for attorneys: training on implicit bias and the promotion of bias-reducing strategies to address how unintended biases regarding race, ethnicity, gender identity, sexual orientation, socioeconomic status, or other characteristics undermine confidence in the legal system. New B&P 6070.5 requires attorneys to participate in implicit bias training for each MCLE compliance period ending *after* January 31, 2023.

continued

[Uncodified Section One of this bill contains several findings and declarations by the Legislature, including these: all persons possess implicit biases; in the United States, studies show that most people have an implicit bias that disfavors African Americans and favors Caucasian Americans; people have negative biases toward members of other socially stigmatized groups such as Native Americans, immigrants, women, disabled people, Muslims and members of the LGBTQ community; judges and lawyers harbor the same kinds of implicit biases as others; it is the intent of the Legislature to ameliorate bias-based injustice in the courtroom.]

Gov't C. 69959
Gov't C. 69959.5
(New)
(Ch. 419) (AB 253)
(Effective 1/1/2020)

Prohibits remote court reporting, except in Santa Clara County which is authorized to conduct a pilot project to study the use of remote court reporting to make the verbatim record of specified court proceedings. Defines "remote court reporting" as the use of a stenographic reporter who is not present in the courtroom to produce a verbatim record of court proceedings that are transmitted by audiovisual means to the reporter. For example, a reporter located at a county's main courthouse could report on a proceeding taking place at a satellite courthouse.

Sets forth these requirements for the pilot project:

1. Remote court reporting may be used only in misdemeanor, infraction, child support, and limited civil cases.
2. Only full-time official court reporters employed by Santa Clara County who have at least five years of courtroom experience may be used.
3. Reporters must be physically located in Santa Clara County Superior Court facilities while performing remote court reporting.
4. A maximum of two courtrooms may be equipped to participate in the pilot project.

Requires that the pilot project terminate by December 31, 2020, unless the Santa Clara County Superior Court terminates it earlier because it determines that the use of remote court reporting is prejudicing the rights of litigants or the interests of justice.

continued

Requires the presiding judge of the Santa Clara County Superior Court to appoint a committee consisting of at least two judges who participated in the pilot project, at least two court reporters, and at least two attorneys who regularly practice in the Santa Clara County Superior Court. Requires the Committee to submit a report to the Legislature within six months of the end of the pilot project.

Provides that a transcript created through remote court reporting as part of the pilot project may be used whenever a transcript of court proceedings is required.

[According to the legislative history of this bill, there is a concern about the accuracy and integrity of transcripts when remote court reporting is used because it will be more difficult for a remote reporter to stop the proceedings when parties talk over one another or to ask a witness to repeat inaudible statements. Many counties are interested in remote court reporting because California's high cost of living, especially housing costs, has made it difficult to attract and retain court reporters.]

Gov't C. 76000.10
(Amended)
(Ch. 537) (AB 651)
(Effective 1/1/2020)

Extends for six months, from January 1, 2020 to July 1, 2020, the penalty of four dollars (\$4) that must be imposed on every conviction of a Vehicle Code violation or conviction of a local ordinance adopted pursuant to the Vehicle Code, except parking offenses. This penalty money goes to the Emergency Medical Air Transportation and Children's Coverage Fund.

Harbors and Navigation Code

H&N 651
(Amended)
(Ch. 109) (AB 1183)
(Effective 1/1/2020)

Expands the definition of a vessel “operator” beyond the person who is actually steering the vessel. Two additional definitions of “operator” are added: a person aboard a vessel who is responsible for the operation of the vessel while underway, or, a person aboard a vessel who is at least 18 years of age and is attentive and supervising the operation of the vessel by a person age 12, 13, 14, or 15 pursuant to H&N 658.5. (H&N 658.8 provides that a person age 12 through 15 is prohibited from operating a specified vessel unless accompanied by a person who is at least 18 years old and who is attentive and supervising the operation of the vessel.)

H&N 651 retains the existing definition of “operator”: a person aboard a vessel who is steering the vessel while underway. Thus, there are now three different ways a person may qualify as the operator of a vessel. The definitions in H&N 651 pertain to Chapter Five of Division Three of the H&N Code, which covers H&N 650–774.4.

[According to the legislative history, the purpose of the bill is to be able to hold criminally liable the person who is responsible for the operation of the vessel or the adult who is supervising a minor, where, for example, the supervisor or adult is under the influence of alcohol.]

H&N 668.5
(New)
(Ch. 644) (SB 393)
(Effective 1/1/2020)

Authorizes the court, upon the conviction of a vessel owner for a violation of H&N 655(b) (operating a vessel, water skis, aquaplane, or similar device while under the influence of alcohol) that resulted in the unlawful killing of a person, to impound the vessel for between one and 30 days. Permits the court to consider factors such as whether impoundment would result in the loss of employment by the vessel owner or a member of the owner’s family, whether the vessel might be lost due to an inability to pay impoundment fees, unfair infringement on community property rights, or other factors the court finds to be relevant.

[This new section is modeled after existing V.C. 23594, which permits the impoundment of a motor vehicle for one to 30 days if a defendant is convicted of V.C. 23152 (DUI) or V.C. 23153 (DUI with injury) occurring within five years

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of a prior DUI conviction and permits impoundment for one to 90 days if a defendant is convicted of V.C. 23152 or 23153 occurring within five years of two more prior DUI convictions. V.C. 23594 contains an exception for a motor vehicle in which someone other than the defendant has a community property interest and the vehicle is the sole vehicle available to the defendant's immediate family.]

Health and Safety Code

H&S 1567.90

H&S 1567.91

H&S 1567.92

H&S 1567.93

H&S 1567.94

(New)

(Ch. 840) (SB 172)

(Effective 1/1/2020)

Adds Article 9.9 to Chapter 3 of Division 2 of the Health & Safety Code entitled "Firearms, Ammunition, and Deadly Weapons." (Chapter 3 is the California Community Care Facilities Act.)

Provides that a facility (defined as a community care facility for adults licensed by the State Dep't of Social Services, except for social rehabilitation facilities and adult day programs) is **not** required to accept, store, or retain firearms or ammunition.

Requires the Dep't of Social Services to promulgate regulations to implement this new article.

Sets forth a number of provisions about how firearms and ammunition must be stored if a facility permits a resident to have them on the premises.

Absolutely prohibits a facility from accepting, retaining, or storing a destructive device, a deadly weapon specified in existing P.C. 16590 (metal knuckles, nunchaku, large-capacity magazine, cane gun, belt buckle knife, wallet gun, etc.), an assault weapon, a machine gun, a short-barreled rifle, or a short-barreled shotgun.

[This bill adds identical provisions for residential care facilities for persons with chronic life-threatening illnesses (see H&S 1568.095–1568.099, below) and for residential care facilities for the elderly (see H&S 1569.280–1569.284, below).]

H&S 1568.095

H&S 1568.096

H&S 1568.097

H&S 1568.098

H&S 1568.099

(New)

(Ch. 840) (SB 172)

(Effective 1/1/2020)

Adds Article 2 to Chapter 3.01 of Division 2 of the Health & Safety Code entitled "Firearms, Ammunition, and Deadly Weapons." Chapter 3.01 applies to residential care facilities for persons with chronic life-threatening illnesses.

Provides that a facility (defined as a residential care facility for persons with chronic life-threatening illnesses licensed by the State Dep't of Social Services) is **not** required to accept, store, or retain firearms or ammunition.

Requires the Dep't of Social Services to promulgate regulations to implement this new article.

continued

Sets forth a number of provisions about how firearms and ammunition must be stored if a facility permits a resident to have them on the premises.

Absolutely prohibits a facility from accepting, retaining, or storing a destructive device, a deadly weapon specified in existing P.C. 16590 (metal knuckles, nunchaku, large-capacity magazine, cane gun, belt buckle knife, wallet gun, etc.), an assault weapon, a machine gun, a short-barreled rifle, or a short-barreled shotgun.

[This bill adds identical provisions for adult community care facilities (see H&S 1567.90–1567.94, above), and for residential care facilities for the elderly (see H&S 1569.280–1569.284, below).]

H&S 1569.280

H&S 1569.281

H&S 1569.282

H&S 1569.283

H&S 1569.284

(New)

(Ch. 840) (SB 172)

(Effective 1/1/2020)

Adds Article 2.7 to Chapter 3.2 of Division 2 of the Health & Safety Code entitled “Firearms, Ammunition, and Deadly Weapons.” Chapter 3.2 applies to residential care facilities for the elderly. Provides that this new article may be cited as the “Keep Our Seniors Safe Act.”

Provides that a facility (defined as a residential care facility for the elderly) is **not** required to accept, store, or retain firearms or ammunition.

Requires the Dep’t of Social Services to promulgate regulations to implement this new article.

Sets forth a number of provisions about how firearms and ammunition must be stored if a facility permits a resident to have them on the premises.

Absolutely prohibits a facility from accepting, retaining, or storing a destructive device, a deadly weapon specified in existing P.C. 16590 (metal knuckles, nunchaku, large-capacity magazine, cane gun, belt buckle knife, wallet gun, etc.), an assault weapon, a machine gun, a short-barreled rifle, or a short-barreled shotgun.

[This bill adds identical provisions for adult community care facilities (see H&S 1567.90–1567.94, above), and for residential care facilities for persons with chronic life-threatening illnesses (see H&S 1568.095–1568.099, above).]

H&S 11159.3
(New)
(Ch. 705) (SB 569)
(Effective 1/1/2020)

Authorizes a pharmacist to fill a prescription for a controlled substance for a patient who cannot access medications as a result of a declared local, state, or federal emergency, even if the prescription form does not meet the requirements of H&S 11162.1, if the California State Board of Pharmacy has issued a notice waiving the Pharmacy Law, and if the prescription meets the standards specified in this new section, including indicating that the patient is affected by a declared emergency with the words “11159.3 exemption” or a similar statement.

[Existing H&S 11162.2 sets forth the requirements and security features for a prescription form for a controlled substance.]

Requires a pharmacist filling a prescription according to this new section to exercise appropriate professional judgment, including reviewing the patient’s activity reports from the CURES Prescription Drug Monitoring Program; to dispense no greater than the amount needed for a seven-day supply if the prescription is for a Schedule II controlled substance; and to require the patient to first demonstrate his or her inability to access medications, such as showing verification of residency within an evacuation area. Prohibits a pharmacist from refilling a prescription that was dispensed pursuant to this section. [CURES stands for Controlled Substance Utilization Review and Evaluation System and is California’s prescription drug monitoring program maintained by the Dep’t of Justice.]

H&S 11162.1
(Amended)
H&S 11162.2
(New)
H&S 11164
(Amended)
(Ch. 4) (AB 149)
(Effective 3/11/2019)

Delays implementation of the requirement that a controlled substance prescription form have a unique serialized number, by providing that a serialized number will not be a required feature in the printing of new prescription forms until a date determined by DOJ, but no later than January 1, 2020. By January 1, 2020, new prescription forms that are printed must have a serialized number that is utilizable as a barcode that may be scanned by dispensers.

Authorizes a pharmacy, until January 1, 2021, to fill a controlled substance prescription written on a prescription form that was valid before January 1, 2019. Thus, prescription forms without a serialized number are permitted to be used until January 2021.

continued

[In 2018, AB 1753 amended H&S 11162.1 to require a prescription form for a controlled substance to have a unique serialized number, in a manner prescribed by DOJ. However, more time was needed to implement this change. The purpose of the serialized number is to reduce prescription form forgery and fraud.]

H&S 11164.1
H&S 11165
H&S 11165.1
H&S 11165.4
(Amended)
(Ch. 677) (AB 528)
(Effective 1/1/2021 or
7/1/2021, depending
on the section)

Makes several changes to procedures pertaining to the CURES database. CURES stands for Controlled Substance Utilization Review and Evaluation System and is California's prescription drug monitoring program maintained by the Dep't of Justice.

Shortens the timeline for a pharmacy or clinic to report the dispensing of a controlled substance, from within seven days after dispensing to no more than one working day after the date a controlled substance is released to a patient or patient's representative.

Adds Schedule V substances to those controlled substances (Schedule II, III, and IV) that CURES applies to and that must be reported by dispensing pharmacies or clinics. Schedule V substances (H&S 11058) include cough syrup with codeine and lomotil, a prescription drug that treats acute diarrhea and contains diphenoxylate, a narcotic that is specified in H&S 11058.

H&S 11590
(Repealed)
H&S 11591
H&S 11591.5
(Amended)
H&S 11592
H&S 11593
(Repealed)
H&S 11594
(Repealed & Added)
H&S 11595
(Repealed)
(Ch. 580) (AB 1261)
(Effective 1/1/2020)

Eliminates all registration requirements for controlled substance offenses. Drug offenders no longer have to register for five years for specified drug convictions. The new version of H&S 11594 provides that the statements, photographs, and fingerprints obtained pursuant to the previous version of H&S 11594 are not open to inspection by the public or by any person other than a regularly employed law enforcement officer.

Repeals H&S 11590 (the requirement to register for a specified controlled substance conviction). Repeals both H&S 11592 and 11593 (informing convicted persons of the duty to register). Repeals H&S 11594, which had required registration for five years and which provided that the failure to register was a misdemeanor crime.

continued

Retains H&S 11591 and H&S 11591.5, which continue to require law enforcement, when it is known that an arrestee is a school employee, to report the arrest of a public school employee, a private school teacher, or a community college teacher to school authorities when the person is arrested for a specified controlled substance offense. Makes conforming amendments to H&S 11591 and 11591.5 necessitated by the repeal of H&S 11590. (Instead of cross-referencing H&S 11590, which had listed a number of H&S sections, H&S 11590 and 11591.5 now list all of the H&S sections for which school employee arrests must be reported.)

[According to the legislative history of the bill, the narcotics registry is “unnecessary, costly and represents yet another bar to successful reentry,” and is inconsistent with the current approach to the treatment of drug offenses (Proposition 36 in the year 2000, Proposition 47 in 2014, and Proposition 64 in 2016.)]

[Retroactivity: The repeal of the crime of failing to register will apply retroactively to any H&S 11594 charge pending on January 1, 2020, and to any conviction of H&S 11594 that is not yet final on appeal as of January 1, 2020. Defendants in both of these situations will be able to get their H&S 11594 charges dismissed.]

H&S 24135
(New)
(Ch. 45) (AB 851)
(Effective 1/1/2020)

Creates new Chapter 1.2 in Division 20 of the Health and Safety Code entitled “Drug Masking Products.”

Prohibits the distribution, delivery, sale, or the possession with intent to distribute, deliver, or sell, a drug masking product. Defines “drug masking product” as synthetic urine or any other substance designed to be added to human urine or human hair for the purpose of defrauding an alcohol or drug screening test. Defines “synthetic urine” as a substance that is designed to simulate the composition, chemical properties, physical appearance, or physical properties of human urine.

The legislative history of this bill recognizes that drug testing is an effective tool for workplace safety, roadway safety, and to ensure compliance with probation and parole, and states that synthetic urine products are commonly used to cheat drug and alcohol tests.

[This writer is unclear about the enforcement of this new section. H&S 24135 says nothing about enforcement, or criminal or civil penalties.]

H&S 26220
H&S 26221
H&S 26222
H&S 26223
H&S 26224
H&S 26225
H&S 26226
H&S 26227
H&S 26228
H&S 26229
H&S 26230
(New)
(Ch. 622) (AB 1125)
(Effective 1/1/2020)

Creates new Chapter 20.5 in Division 20 of the Health & Safety Code, entitled “Animal Control Officer Standards Act” in order to establish statewide standards for animal control officers.

Requires the Board of Directors of the California Animal Welfare Association to develop and maintain standards for *certified* animal control officers and sets forth a number of duties for the Board.

Sets forth the minimum standards and training required to become a certified animal control officer and provides that the education and training standards the Board adopts cannot be less rigorous. Sets forth continuing education requirements after certification.

Prohibits a person from using the title “certified animal control officer” unless he or she holds a valid certificate of registration.

Uncodified Section One of the bill contains the Legislature’s declaration that the certification of animal control officers is a voluntary program. Local agencies and employers are not required to require their animal control officers to become certified. Animal control officers may choose to become certified. Or a local agency may choose to require its animal control officers to become certified.

H&S 134000
H&S 134002
(New)
(Ch. 531) (AB 824)
(Effective 1/1/2020)

Adds new Division 114.01 entitled “Preserving Access to Affordable Drugs,” which targets reverse settlement agreements in patent infringement cases, whereby a generic drug maker agrees to delay entry into the market in exchange for something of value from the brand maker of the drug.

Provides that an agreement to resolve or settle a patent infringement claim in connection with the sale of a pharmaceutical product is presumed to have anti-competitive effects and is a violation if both of the following apply:

1. a non-reference (generic) drug filer receives anything of value from another company asserting patent infringement, including, but not limited to, an exclusive license or a promise that the brand company will not

continued

- launch an authorized generic version of its brand drug;
and
2. the non-reference (generic) drug filer agrees to limit or forego research, development, manufacturing, marketing, or sales of the non-reference drug filer's product for any period of time.

Sets forth a number of exceptions, including a party being able to demonstrate by a preponderance of the evidence that the agreement has pro-competitive benefits and that the pro-competitive benefits outweigh the anti-competitive effects of the agreement.

The above is based on standards articulated in the California Supreme Court case of *In re Cipro Cases I & II* (2015) 61 Cal.4th 116.

Authorizes the Attorney General to bring an action to recover a civil penalty of \$20 million or more.

Provides that each party violating or assisting in a violation is liable for damages, penalties, costs, fees, injunctions, or other remedies that may be available under the Unfair Competition Law (B&P 17200–17210), the Unfair Practices Act (B&P 17000–17101), or Restraint of Trade provisions (B&P 16700–16770).

Requires a cause of action to be commenced within four years after the cause of action accrues.

Juvenile Delinquency

W&I 707.5
(New)
(Ch. 583) (AB 1423)
(Effective 1/1/2020)

Permits a juvenile case that was transferred to criminal (adult) court pursuant to W&I 707 to be returned back to juvenile court, depending on what the defendant is convicted of in adult court.

Provides that if the defendant is convicted *at trial* in adult court of a misdemeanor or misdemeanors, the case must be returned to juvenile court if the defendant requests the return.

Provides that if a W&I 707(b) offense was the basis of the case being transferred to adult court and the defendant is convicted *at trial* of **non-W&I 707(b)** felonies or a combination of non-W&I 707(b) felonies and misdemeanors, the court has the discretion to return the case to juvenile court for sentencing, if the defendant requests the return.

Provides that if **non-W&I 707(b)** offenses were the basis of the case being transferred to adult court and pursuant to a plea agreement the defendant pleads guilty only to a misdemeanor or misdemeanors, or, if a W&I 707(b) offense was a basis for transfer to adult court and pursuant to a plea agreement the defendant pleads guilty only to a misdemeanor or misdemeanors, or to non-W&I 707(b) felonies, or to a combination of non-W&I 707(b) felonies and misdemeanors, the court may return the case to juvenile court *only if both parties agree and request the return*. [Note that in a plea agreement scenario, the prosecutor can prevent the return to juvenile court by simply not agreeing to the return.]

Provides that in deciding whether to return a case to juvenile court, except where the return is mandatory, the court must make a finding by a preponderance of the evidence that a juvenile disposition is in the interests of justice and the welfare of the defendant, and state in the minute order the specific reasons for making the finding. Requires the court to consider the transcript and minute order of the transfer hearing, the time the defendant has served in custody, the dispositions and services available to the defendant in juvenile court, and any relevant evidence submitted by either party.

continued

Provides that if a case is to be returned to the juvenile court, the adult court must return the entire case to the juvenile court and it must be calendared within two court days. Requires the juvenile court to then order the probation department to prepare a social study about the proper disposition of the case. Provides that a conviction or guilty plea in adult court shall be considered an adjudication or admission before the juvenile court for all purposes.

Requires the clerk of the criminal court to report a returned case to the probation department, the law enforcement agency that arrested the minor, and DOJ. Requires the clerk to deliver all copies of the minor's criminal court record to the clerk of the juvenile court and to obliterate the minor's name in any index maintained in the criminal court.

W&I 709
(Amended)
(Ch. 161) (AB 439)
(Effective 7/31/2019)

Removes developmental centers from the list of alternatives to juvenile hall confinement that a court is directed to consider when a juvenile is found incompetent to stand trial. [According to the legislative history of this bill, there was a moratorium placed on developmental center admissions in 2012 and there are currently no provisions for the admission of an incompetent minor to a developmental center or a state-operated community facility. References to developmental centers are eliminated from W&I 709 to clarify that they are not a potential placement option.]

W&I 727.05
(New)
(Ch. 777) (AB 819)
(Effective 1/1/2020)

Authorizes a probation agency to make an emergency placement of a minor ordered into its care, custody, and control with a relative or a non-relative extended family member.

Before making an emergency placement, requires a probation agency to conduct an in-home inspection; conduct a state-level criminal records check through CLETS (California Law Enforcement Telecommunications System) on specified members of the proposed home; and conduct a check of allegations of prior child abuse or neglect concerning the relative, non-relative, or other adults in the home.

Sets forth details about what type of convictions will disqualify the home for emergency placement.

W&I 739.5
(Amended)
(Ch. 547) (SB 377)
(Effective 1/1/2020)

Requires Judicial Council forms relating to the administration of psychotropic medication to a minor to include, by September 1, 2020, a request for authorization by the minor or minor's attorney to release the minor's medical information to the Medical Board of California so that it can be ascertained whether there is excessive prescribing of psychotropic medication.

W&I 781
W&I 786
(Amended)
(Ch. 50) (AB 1537)
(Effective 1/1/2020)

Amends subdivision (a)(1)(D)(iii) of W&I 781 and subdivision (g)(1)(K) of W&I 786 to add language to the provisions that permit a prosecutor to access a sealed juvenile record so that the prosecutor can meet his or her statutory or constitutional obligation to disclose favorable or exculpatory evidence to a criminal defendant. [Pursuant to the U.S. Supreme Court case of *Brady v. Maryland* (1963) 373 U.S. 83 and other authorities, prosecutors have a duty to disclose favorable or exculpatory evidence to criminal defendants.]

Adds to these provisions a requirement that the prosecutor's request to the juvenile court to access information in a sealed juvenile file include the prosecutor's rationale for believing that access to the information may be necessary to meet disclosure obligations and the date by which the records are needed. Also adds the following:

1. a ruling allowing disclosure of information does not affect whether the information is admissible in a criminal or juvenile proceeding;
2. these provisions do not impose any discovery obligations on a prosecuting attorney that do not already exist; and
3. these provisions do not pertain to W&I 300 juvenile dependency cases.

[This bill also adds new language to both P.C. 851.7 and W&I 793 to permit access to sealed juvenile records for purposes of prosecutors complying with their *Brady* obligations. The four sections are now consistent. W&I 781(a)(1)(D)(iii) pertains to a sealed record of a W&I 707(b) offense committed when a minor is age 14 or older. W&I 786 provides for the sealing of a juvenile record after satisfactory completion of probation or an informal program of supervision, and directs the court to specify a date by which agencies (law enforcement, probation department, DOJ) shall destroy those records.]

W&I 781.1
(New)
(Ch. 582) (AB 1394)
(Effective 1/1/2020)

Prohibits a superior court or a probation department from charging a fee for the filing of a petition to seal a juvenile record pursuant to W&I 781. (W&I 781 permits the sealing of a specified juvenile record five years after the case is over or at any time after the person reaches 18 years of age.)

[This bill also repeals W&I 903.3, which had provided that a person age 26 or older, unless indigent, is liable for the cost to the county and court for any investigation related to the sealing of a juvenile record pursuant to W&I 781, up to \$150.]

W&I 793
(Amended)
(Ch. 50) (AB 1537)
(Effective 1/1/2020)

Adds a new subdivision (d) to permit prosecutors to access records sealed pursuant to this section so that they can comply with statutory and constitutional obligations to disclose favorable or exculpatory evidence to a criminal defendant. (Pursuant to the U.S. Supreme Court case of *Brady v. Maryland* (1963) 373 U.S. 83 and other authorities, prosecutors have a duty to disclose favorable or exculpatory evidence to criminal defendants.)

New subdivision (d) provides that a record sealed pursuant to W&I 793 may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation.

[Existing W&I 793 requires the juvenile court to seal the record of a juvenile who performs satisfactorily in a deferred entry of judgment (DEJ) program but permits access to sealed records by prosecutors and probation departments for the limited purpose of determining whether a minor is eligible for DEJ.]

Regarding accessing a sealed juvenile record for *Brady* purposes:

- Requires the prosecutor to submit to the juvenile court a request to access information.
- Requires that the request include the date by which the records are needed and the prosecutor's rationale for believing that access to the information may be necessary to meet the disclosure obligation.

continued

- Requires the juvenile court to review the case file and records that are referenced by the prosecutor and review any response by the person who has the sealed record.
- Requires the court to approve the prosecutor's request to the extent the court determines that access to a sealed record or portion of a sealed record is necessary to enable the prosecuting attorney to comply with the disclosure obligation.

If the juvenile court approves the prosecutor's request, the court must state on the record appropriate limits on the access, inspection, and utilization of the sealed record information in order to protect the confidentiality of the person whose sealed record is accessed. Provides that a ruling allowing disclosure does not affect whether the information is admissible in a criminal or juvenile proceeding. Also provides that this new subdivision does not impose any discovery obligations on a prosecutor that do not already exist. Provides that this new subdivision does *not* apply to W&I 300 juvenile dependency case files.

[The purpose of this amendment is to make sure that prosecutors can actually comply with their duty to disclose favorable or exculpatory information that may exist in a record that has been sealed. A prosecutor may wish to call a witness in a current criminal case who was previously charged with juvenile conduct in a separate proceeding. If that record has been sealed pursuant to W&I 793, then the prosecutor cannot access that information without authority to do so, which this amendment now provides, if the prosecutor has reason to believe that the sealed record contains information that should be disclosed. For example, the prosecutor may have reason to believe that the sealed record indicates the witness was dishonest with law enforcement in the earlier proceeding.]

[This bill borrows existing language from W&I 781 and 786 and adds some language to those two sections. It also adds the same language to P.C. 851.7, so that all four sections are now consistent. See above for the amendments to W&I 781 and 786, and see the Penal Code section of this digest for the amendments to P.C. 851.7.]

W&I 827
(Amended)
(Ch. 256) (SB 781)
(Effective 1/1/2020)

Adds that DOJ may *receive* copies of juvenile case files, in addition to its existing authorization to *inspect* juvenile case files. W&I 827(a)(1)(P) already provides DOJ with the authority to inspect a juvenile case file in order to carry out its duties as the repository for sex offender registration in California. This bill adds the authority to receive a juvenile sex offender case file. According to the legislative history of this bill, DOJ previously had to submit a form seeking permission from the juvenile himself/herself in order to receive copies of the file. Since juveniles are not required to grant access, this created a backlog in processing and assessing juvenile sex offender registration records. DOJ will no longer have to obtain permission from a juvenile offender in order to receive copies of that juvenile sex offender's case records and will be better able to advise local agencies about whether a juvenile sex offender is required to register.

W&I 858
W&I 889.2
(New)
(Ch. 857) (SB 716)
(Effective 1/1/2020)

Requires a county probation department to ensure that a juvenile with a high school diploma, or California high school equivalency certificate who is detained in, or committed to, a juvenile hall (new W&I 858) or a juvenile ranch or camp (new W&I 889.2) has access to public post-secondary academic and career technical courses and programs offered online for which the juvenile is eligible. Permits a county probation department to use juvenile court school classrooms and computers for the purpose of implementing these new sections.

Sets forth the Legislature's intent that juveniles have access to rigorous post-secondary academic and career technical education programs that fulfill the requirements for transfer to the University of California and the California State University and that prepare them for career entry.

[This bill also creates new W&I 1762 to add the same educational provisions for juveniles who are detained in, or committed to, a Division of Juvenile Facilities facility. See below.]

W&I 903.3
(Repealed)
(Ch. 582) (AB 1394)
(Effective 1/1/2020)

Repeals this section, which had provided that a person age 26 or older, unless indigent, is liable for the cost to the county and court for any investigation related to the sealing of a juvenile record pursuant to W&I 781, up to \$150. Now, there is no fee for the investigation, regardless of the age of the person seeking the sealing of a juvenile record.

This bill also creates new W&I 781.1 to prohibit a superior court or a probation department from charging a fee for the filing of a petition to seal a juvenile record pursuant to W&I 781. (W&I 781 permits the sealing of a specified juvenile record five years after the case is over or at any time after the person reaches 18 years of age.)

W&I 1700
(Amended)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Eliminates the word “correction” from the purposes of Chapter One (W&I 1700–1915, The Youth Authority) of Division 2.5 (Youths) of the Welfare & Institutions Code. This section now reads: “The purpose of this chapter is to protect society from the consequences of criminal activity and to that purpose community restoration, victim restoration, and offender training and treatment shall be substituted for retributive punishment and shall be directed toward the ~~correction and~~ rehabilitation of young persons who have committed public offenses.”

W&I 1703
W&I 1710
W&I 1711
W&I 1712
W&I 1714
W&I 1731.5
W&I 1731.7
(Amended)
W&I 1752.5
(New)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Makes conforming changes, effective July 1, 2020, that are consistent with new Gov’t C. 12820–12836, which move the Division of Juvenile Justice and the Board of Juvenile Hearings from CDCR and reestablishes them as the Dep’t of Youth and Community Restoration (DYCR) under the California Health and Human Services Agency. (The transfer process is to start on July 1, 2019 and to be completed by July 1, 2020.)

Also makes substantive changes to some sections.

W&I 1710 is amended as of July 1, 2020, to expand the Legislature’s declaration about the purpose of the Dep’t of Youth and Community Restoration (DYCR), beyond what was stated in the previous version of W&I 1710 about the purpose of the Division of Juvenile Justice.

Adds the following: transitioning youth into responsible and successful adults, helping them desist from criminal

continued

behavior, and helping youth become thriving and engaged members of their communities. The new version of W&I 1710 requires DYCR to build and practice the values of a safe and caring community within DYCR; to develop a fully prepared and continually supported staff that is healthy, educated, and trained to fulfill their unique and vital roles; to offer treatment to help youth heal from past experience and change the thinking, beliefs, and behaviors that lead to hurting themselves and others; to create opportunities for youth to understand and restore the harms caused by their actions; and to provide education, training, and life experiences for youth to imagine, aspire, and build a pathway to a successful life.

W&I 1731.5(b) is amended as of July 1, 2020, in this way: “The Department of Youth and Community Restoration shall accept a person committed to it pursuant to this article if it believes that the person can be materially benefited by its ~~reformatory and educational discipline~~ *developmentally appropriate educational, therapeutic, and rehabilitative programming*, and if it has adequate facilities to provide that care.”

A new subdivision (c) is added to W&I 1731.7, effective June 27, 2019, to require that an offender who has been convicted of a W&I 707(b) offense committed prior to age 18 who is age 18 or older at the time of sentencing, remain in local detention pending a determination of acceptance or rejection by the Division of Juvenile Justice (before July 1, 2020) or by the Dep’t of Youth and Community Restoration (on and after July 1, 2020). Requires the Division of Juvenile Justice and the Dep’t of Youth and Community Restoration to notify the local detention authority upon the determination of acceptance or rejection.

New W&I 1752.5, effective June 27, 2019, requires the Division of Juvenile Justice (until July 1, 2020) and the Dep’t of Youth and Community Restoration (on and after July 1, 2020) to partner with the California Conservation Corps and certified local conservation corps, to develop and establish a precorps transitional training program within the Division of Juvenile Justice (until July 1, 2020) and the Dep’t of Youth and Community Restoration (on and after July 1, 2020).

W&I 1762
(New)
(Ch. 857) (SB 716)
(Effective 1/1/2020)

Requires the Division of Juvenile Facilities, to the extent feasible using existing resources, to ensure that a juvenile with a high school diploma, or California high school equivalency certificate who is detained in, or committed to, a Division of Juvenile Facilities facility, has access to public post-secondary academic and career technical courses and programs offered online for which the juvenile is eligible.

Sets forth the Legislature's intent that youth have access to rigorous post-secondary academic and career technical education programs that fulfill the requirements for transfer to the University of California and the California State University and that prepare them for career entry.

Beginning July 1, 2020, changes the reference to the Division of Juvenile Facilities to the Dep't of Youth and Community Restoration in conformity with SB 94, which created new Gov't C. 12820–12836. These new Government Code sections move the Division of Juvenile Justice and the Board of Juvenile Hearings from CDCR and re-establishes them as the Dep't of Youth and Community Restoration (DYCR) under the California Health and Human Services Agency.

[This bill also creates new W&I 858 and W&I 889.2 to add the same educational provisions for juveniles who are detained in, or committed to, a juvenile hall, juvenile ranch, or juvenile camp. See above.]

New Felonies

P.C. 487k
(New)
(Ch. 119) (SB 224)
(Effective 1/1/2020)

Creates a separate grand theft crime for agricultural equipment: stealing, taking, or carrying away a tractor, all-terrain vehicle, or other agricultural equipment, or any portion thereof, used in the acquisition or production of food for public consumption, which is of a value exceeding \$950. Pursuant to existing P.C. 489(c), this new grand theft is punishable by 16 months, two years, or three years in jail pursuant to P.C. 1170(h) or by up to one year in jail. This bill also amends P.C. 489 to add that in a county participating in a rural crime prevention program, the proceeds of a fine imposed for a conviction of P.C. 487k shall be allocated by the Controller, upon appropriation by the Legislature, to the Central Valley Rural Crime Prevention Program (P.C. 14170–14175) or to the Central Coast Rural Crime Prevention Program (P.C. 14180–14182).

[The purpose of the bill is to be able to better track the theft of agricultural equipment and to have the fines imposed for this type of theft go to rural crime prevention programs.]

P.C. 29805(c)
(New subdivision)
(Ch. 840) (SB 172)
(Effective 1/1/2020)

Adds the felony / misdemeanor crime of being convicted of a specified firearm storage crime (P.C. 25100, 25135, or 25200), and then owning, purchasing, receiving, or possessing a firearm within 10 years of that conviction. This new crime applies to any misdemeanor conviction of P.C. 25100, 25135, or 25200 that occurs on or after January 1, 2020. It is punishable by 16 months, two years, or three years in state prison, or by up to one year in county jail. See the Penal Code section of this digest for more information.

[P.C. 25100 contains the crimes of criminal storage of a firearm in the first degree, second degree, and third degree. P.C. 25135 is the crime of keeping a firearm in a residence where a person who is prohibited from having a firearm also lives, and not maintaining the firearm in a secure manner. P.C. 25200 contains the crimes of keeping a firearm on one's premises knowing that a child is likely to gain access to the firearm or that a person prohibited from possessing a firearm is likely to gain access, and the child or prohibited person gains access to the firearm and carries it off the premises, or gains access to the firearm and carries it off the premises to a school or school-sponsored event.]

continued

There should not be any ex post facto issue with charging new P.C. 29805(c) based on a firearm storage misdemeanor *committed* before 2020, because the firearm conduct being punished will occur in 2020 or later, and thus does not pre-date P.C. 29805(c)'s effective date of January 1, 2020. In *People v. Mesce* (1997) 52 Cal.App.4th 618, 623, the court found that the defendant's conviction for former P.C. 12021(c) (now P.C. 29805) did not violate ex post facto principles because the firearm conduct being punished occurred after P.C. 12021(c)'s effective date. The court found that P.C. 12021(c) may be applied to defendants who committed a qualifying offense (e.g., a specified misdemeanor) prior to P.C. 12021(c)'s enactment.

New Misdemeanors

Fish & Game 2023
(New)
(Ch. 764) (AB 44)
(Effective 1/1/2023)

Beginning January 1, 2023, creates two new misdemeanor crimes:

1. Selling, offering for sale, displaying for sale, trading, or distributing for monetary or non-monetary consideration, a fur product.
2. Manufacturing a fur product for sale.

Exempts used fur products, fur products used for religious purposes, fur products used for traditional tribal, cultural, or spiritual purposes by a member of a recognized Native American tribe, and any activity expressly authorized by federal law.

Defines “fur” as any animal skin or part with hair, fleece, or fur fibers attached, either in its raw or processed state. Defines a fur product as an article of clothing or covering for any part of the body, or any fashion accessory, including, but not limited to, handbags, shoes, slippers, hats, earmuffs, scarves, shawls, gloves, jewelry, keychains, toys, trinkets, and home accessories and décor, that is made in whole or in part of fur.

Exempts from the definition of “fur product” the following:

1. a dog or cat fur product, as defined in 19 U.S.C. 1308 as that section read on January 1, 2020; (19 U.S.C. 1308 defines “cat fur” as the pelt or skin of any animal of the species *Felis catus* and it defines “dog fur” as the pelt or skin of any animal of the species *Canis familiaris*);
2. an animal skin that is to be converted into leather;
3. cowhide with hair attached;
4. deerskin, sheepskin, or goatskin with hair attached;
5. the pelt or skin of an animal that is preserved through taxidermy; or
6. a product made pursuant to Fish & Game 3087 (taxidermy) or 4303 (which permits the skin or hide of any deer lawfully taken to be sold, purchased, tanned, or manufactured into articles for sale).

Pursuant to existing F&G 12000(a) and 12002(a), these new misdemeanor crimes are punishable by up to six months in jail and/or by a fine of up to \$1,000.

continued

Subdivision (e) of new Fish & Game 2023 permits a district attorney, city attorney, county counsel, or the Attorney General to bring a civil action to recover a specified civil penalty in lieu of prosecuting a violation of Fish & Game 2023 as a misdemeanor crime. Provides that a first violation, or any violation not within one year of a prior violation, is subject to a civil penalty of up to \$500; a second violation within one year of a previous violation is subject to a civil penalty of up to \$750; and a violation within one year of a second or subsequent violation is subject to a civil penalty of up to \$1,000. Provides that each fur product is a separate violation in a civil action.

[This bill also amends Fish & Game 3039 to add a cross-reference to new Fish & Game 2023, effective January 1, 2023.]

[The legislative history of the bill states that there are a variety of humane alternatives to real fur, such as faux fur that is virtually indistinguishable from real fur and alternative textiles that are just as warm or fashionable. "There is no need for fur in the 21st century and no place for it in a sustainable future."]

Fish & Game 4001
(New)

Fish & Game 4150
(Amended)
(Ch. 216) (AB 273)
(Effective 1/1/2020)

The Wildlife Protection Act of 2019.

New Fish & Game 4001 prohibits the trapping of any fur-bearing mammal *for purposes of recreation or commerce* in fur and provides that the raw fur of a fur-bearing mammal otherwise lawfully taken pursuant to the Fish & Game Code or regulations adopted pursuant to it, may not be sold.

Amended Fish & Game 4150 adds a prohibition for the trapping of a non-game mammal *for purposes of recreation or commerce* in fur and provides that the raw fur of a non-game mammal shall not be sold.

Pursuant to existing Fish & Game 12000(a) and 12002(a), these new prohibitions are misdemeanor crimes, punishable by up to six months in jail and/or by a fine of up to \$1,000.

Existing Fish & Game 4000 defines fur-bearing mammals as pine marten, fisher, mink, river otter, gray fox, red fox, kit fox, raccoon, beaver, badger, and muskrat.

continued

Existing Fish & Game 4005 defines “raw fur” as any fur, pelt, or skin that has not been tanned or cured, except that salt-cured or sun-cured pelts are raw furs.

Existing Fish & Game 4150 defines “nongame mammal” as a mammal occurring naturally in California that is not a game mammal, fully protected mammal, or fur-bearing mammal.

[See the Environmental section of this digest for more information.]

Fish & Game 4156
(New)
(Ch. 766) (AB 1254)
(Effective 1/1/2020)

Prohibits the hunting, trapping, or taking of bobcats. Pursuant to existing Fish & Game 12000(a) and 12002(a), a violation of this new section is a misdemeanor crime punishable by up to six months in jail and/or by a fine of up to \$1,000, or both.

Sets forth a number of exceptions to the prohibition on hunting, trapping, or taking a bobcat, including these two:

1. The take of a bobcat by a law enforcement officer or licensed veterinarian acting in the course or scope of his or her duty.
2. The take of a bobcat based on the good-faith belief that the take was necessary to protect a person from immediate bodily harm from the bobcat if the person notifies the Dep’t of Fish & Wildlife (DFW) within five days and at least part of the bobcat is not retained, sold, or removed from the site of the take without authorization from DFW.

[This bill also adds new Fish & Game 4157 and 4158, and amends Fish & Game 4152, 4153, 4154, and 4181, all relating to bobcats. See the Environmental section of this digest for more information.]

P.C. 529.6
(New)
(Ch. 831) (AB 1563)
(Effective 1/1/2020)

Creates a section that shall be known as the “Freedom to Count Act.” It contains two new misdemeanor crimes related to the federal census:

1. Falsely representing one’s self as a census taker with the intent to interfere with the operation of the census or with the intent “to obtain information or consent to an otherwise unlawful search and seizure.”

continued

2. Falsely assuming some or all of the activities of a census taker with the intent to interfere with the operation of the census or with the intent “to obtain information or consent to an otherwise unlawful search and seizure.”

Provides that both misdemeanors are punishable by up to one year in jail and/or by a fine of up to \$1,000, or both.

[This bill also creates new Gov’t C. 12127.8, which authorizes the Secretary of State to work with the California Census Office and the California Complete Count Committee to promulgate, by February 1, 2020, a “California Census Bill of Rights and Responsibilities.” See the Government Code section of this digest for more information.]

[The legislative history of this bill indicates the Legislature’s concern is that police, public employees, or ICE (Immigration & Customs Enforcement) agents will impersonate census takers in order to obtain information that can be used for deportations.]

P.C. 30400
P.C. 30405
P.C. 30406
P.C. 30412
P.C. 30414
P.C. 30442

(New)
(Ch. 730) (AB 879)
(Effective 7/1/2024)

Creates a number of new misdemeanor crimes and provisions, effective July 1, 2024, relating to firearm precursor parts. See the Penal Code section of this digest for a more thorough description of firearm precursor part provisions.

Beginning July 1, 2024, requires the sale of firearm precursor parts to be conducted through a licensed firearm precursor part vendor.

The purpose of these new sections is to prevent a person (especially a person prohibited from having a firearm) from purchasing firearm precursor parts (often purchased online) and assembling a firearm at home. These firearms have no serial numbers and thus are not traceable by law enforcement. They are referred to as “ghost guns.”

P.C. 30400

- P.C. 30400(a): selling a firearm precursor part to a person under age 21.
- P.C. 30400(b): supplying, delivering, or giving possession of a firearm precursor part to a minor who the supplier knows, or using reasonable care should have known, is prohibited from possessing a firearm or ammunition.

continued

Provides that demanding, being shown, and acting in reasonable reliance upon, bona fide evidence of majority and identity is a defense to either crime.

Both crimes are punishable by up to six months in jail and/or by a fine of up to \$1,000.

P.C. 30405

- P.C. 30405(a)(1): a person prohibited from owning or possessing a firearm, owning, possessing, or controlling a firearm precursor part.

Punishable by up to one year in jail and/or by a fine of up to \$1,000.

Sets forth an exception to this new crime: finding a firearm precursor part or taking it from a person who was committing a crime against the taker, and possessing it no longer than necessary to deliver it to a law enforcement agency, if the person is prohibited from possessing a firearm precursor part solely because he or she is prohibited from owning or possessing a firearm pursuant to P.C. 29800–29865. Provides that at trial, the trier of fact must determine whether the defendant is eligible for this exemption. Places the burden on the defendant to prove by a preponderance of the evidence that the defendant is within the scope of the exemption.

P.C. 30406

- P.C. 30406(a): supplying, delivering, selling, or giving possession or control of a firearm precursor part to anyone who the supplier knows, or using reasonable care should know, is prohibited from owning, possessing, or having custody or control of a firearm precursor part. Punishable by up to one year in jail and/or by a fine of up to \$1,000.
- P.C. 30406(b): supplying, delivering, selling, or giving possession or control of a firearm precursor part to a person who the supplier knows or has cause to believe is not the actual purchaser or transferee of the firearm precursor part, with knowledge or cause to believe that the firearm precursor part is to be subsequently sold or transferred to a person who is prohibited from owning, possessing, or having custody or control of a firearm precursor part. Punishable by up to one year in jail and/or by a fine of up to \$1,000.

continued

P.C. 30412

- P.C. 30412(a)(1): Failing to conduct the sale of a firearm precursor part through a licensed firearm precursor part vendor.
- P.C. 30412(b): Failing to conduct a firearm precursor part transaction in a face-to-face transaction. Permits a firearm precursor part to be ordered over the Internet or through other means of remote ordering if a licensed firearm precursor part vendor initially receives the part and processes the transaction.

Subdivision (e) provides that a violation of P.C. 30412 is a misdemeanor but does not specify the punishment. Therefore, pursuant to existing P.C. 19, it is punishable by up to six months in jail and/or by a fine of up to \$1,000.

Sets forth a number of exceptions, such as for a law enforcement agency or a sworn peace officer.

P.C. 30414

- P.C. 30414(a): Bringing or transporting into California a firearm precursor part purchased or obtained outside of California, without first having the part delivered to a firearm precursor part vendor for delivery.

Subdivision (c) provides that a violation of P.C. 30414 is a misdemeanor but does not specify the punishment. Therefore, pursuant to existing P.C. 19, it is punishable by up to six months in jail and/or by a fine of up to \$1,000.

Sets forth several exceptions, such as for a sworn peace officer or a firearm precursor part vendor.

P.C. 30442

- P.C. 30442(a): Selling more than one firearm precursor part in any 30-day period, without a valid firearm precursor part vendor license.

Subdivision (d) provides that a violation of P.C. 30442 is a misdemeanor but does not specify the punishment. Therefore, pursuant to existing P.C. 19, it is punishable by up to six months in jail and/or by a fine of up to \$1,000.

Sets forth a number of exceptions, such as for law enforcement.

Penal Code

P.C. 136.2
(Amended)
(Ch. 256) (SB 781)
(Effective 1/1/2020)

Makes a number of technical, non-substantive amendments to this section that pertain to protective orders, including updating the name of the “Domestic Violence Restraining Order System” to the “California Restraining and Protective Order System” so that the statute is consistent with the current name of the System and reflective of the fact that the orders in the System are not all domestic violence related.

P.C. 150
(Repealed)
(Ch. 204) (SB 192)
(Effective 1/1/2020)

Repeals this *posse comitatus* provision, which had required every able-bodied person age 18 or older to aid a peace officer or judge upon request, in making an arrest, re-taking an escaped person into custody, or preventing a breach of the peace.

A violation of P.C. 150 was punishable by a fine of between \$50 and \$1,000. It was originally enacted in 1872 and was last amended in 1998.

[This bill also repeals P.C. 1550, which had provided that every peace officer or other person empowered to make an arrest had the authority to command assistance in the making of the arrest as provided in P.C. 150, and that the failure or refusal to help is a violation of P.C. 150.]

[According to the legislative history of this bill, the California Posse Comitatus Act of 1872 was created during a time when peace officers had limited resources and is “a vestige of a bygone era.” The California State Sheriffs Association opposed the bill, pointing out that the proponents of repeal could not cite any problems with the law other than that it was enacted many years ago.]

P.C. 186.2
(Amended)
(Ch. 268) (AB 1294)
(Effective 1/1/2020)

Adds a number of gambling crimes (P.C. 320, 321, 322, 323, 326, 330a, 330b, 330c, 330.1, and 330.4) to those included in the definition of criminal profiteering activity. Adding these crimes to the definition of criminal profiteering activity means that the asset forfeiture provisions of P.C. 186.3 are now available for these crimes. P.C. 186.3 permits the forfeiture of any property interest, tangible or intangible, acquired through a pattern of criminal profiteering activity, and, all proceeds of a pattern of criminal profiteering activity, including things of value that may have been received in

continued

exchange for the proceeds immediately derived from the pattern of criminal profiteering activity.

The added crimes include illegal lottery activity and slot machine crimes.

[According to the legislative history of this bill, law enforcement is facing an illegal gambling epidemic and many gambling operations are sweepstakes cafes and arcade-style gambling machines. The machines appear to be games but are really slot machines because no skill is involved. These gambling businesses are linked to drugs, property crimes, and robberies and have connections to organized crime. Adding these crimes to P.C. 186.2 means that instead of relying on fines and equipment seizures, law enforcement can use P.C. 186.3 forfeiture provisions to, for example, target the bank accounts that contain the profits of illegal gambling enterprises. Existing P.C. 186.3 requires a conviction before forfeiture can occur and existing P.C. 186.4–186.6 permit the prosecution to file pre-conviction actions in order to preserve proceeds and property.]

P.C. 186.9
(Amended)
(Ch. 143) (SB 251)
(Effective 1/1/2020)

Makes a technical, non-substantive amendment by changing a reference *from* the “Commissioner of Corporations” *to* the “Commissioner of Business Oversight” in the definition of “financial institution” in subdivision (b). [P.C. 186.9 defines terms related to the crime of money laundering such as “conducts,” “financial institution,” “transaction,” “monetary instrument,” “criminal activity,” and “foreign bank draft.”]

P.C. 189
(Amended)
(Ch. 497) (AB 991)
(Effective 1/1/2020)

Makes a technical, non-substantive amendment by adding P.C. 287 to the felony murder list. As of January 1, 2019, P.C. 288a oral copulation was renumbered to new P.C. 287 without substantive change. P.C. 189 now cross-references both former P.C. 288a and new P.C. 287.

P.C. 196
(Amended)
(Ch. 170) (AB 392)
(Effective 1/1/2020)

Provides that a homicide committed by a peace officer is justifiable if it is either (1) in obedience to a judgment of a competent court; or (2) “when the homicide results from a peace officer’s use of force that is in compliance with” P.C. 835a. This bill also amends P.C. 835a. See P.C. 835a, below.

continued

[*Previously*, this section provided that a homicide committed by a *public* officer is justifiable if it is (1) in obedience to a judgment of a competent court; or (2) when necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty; or (3) when necessarily committed in retaking felons who have been rescued or escaped, or when necessarily committed in arresting persons charged with a felony, and who are fleeing from justice or resisting such arrest.]

P.C. 266
(Amended)
(Ch. 615) (AB 662)
(Effective 1/1/2020)

Expands the felony crime of procurement for sexual purposes by making it applicable to male victims and by deleting the requirement that the victim be unmarried and of previous chaste character. Remains punishable by 16 months, two years, or three years in state prison or by up to one year in jail, and/or by a fine of up to \$2,000.

P.C. 266 is *now* worded as follows: "A person who inveigles or entices a person under 18 years of age into a house of ill fame, or of assignation, or elsewhere, for the purpose of prostitution, or to have illicit carnal connection with another person, and a person who aids or assists in that inveiglement or enticement, and a person who, by any false pretenses, false representation, or other fraudulent means, procures a person to have illicit carnal connection with another person, is punishable by imprisonment in the state prison, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment."

P.C. 266 was *previously* worded as follows: "Every person who inveigles or entices any unmarried female, of previous chaste character, under the age of 18 years, into any house of ill fame, or of assignation, or elsewhere, for the purpose of prostitution, or to have illicit carnal connection with any man; and every person who aids or assists in such inveiglement or enticement; and every person who, by any false pretenses, false representation, or other fraudulent means, procures any female to have illicit carnal connection with any man, is punishable by imprisonment in the state prison, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both such fine and imprisonment."

[According to the legislative history of the bill, its purpose is to modernize this statute so that it can be used to protect human trafficking victims.]

P.C. 286.5
(Amended)
(Ch. 613) (AB 611)
(Effective 1/1/2020)

Expands and clarifies the misdemeanor crime of sexually assaulting an animal for the purpose of arousing or gratifying the sexual desire of the person, by defining “sexual assault,” by making the crime applicable to animals that are alive or dead, and by expanding the purpose of the crime beyond sexual arousal or gratification to include abuse or financial gain. Adds provisions for the seizure and forfeiture of victim animals and makes convicted defendants liable for the costs of housing, caring for, feeding, and treating seized animals. The crime is now worded as “[e]very person who has sexual contact with an animal is guilty of a misdemeanor.”

Defines “animal” as any non-human creature that is *alive or dead*.

Defines “sexual contact” as any act, committed for the purpose of sexual arousal or gratification, abuse, or financial gain, between a person and an animal involving contact between the sex organs or anus of one and the mouth, sex organs, or anus of the other, or, without a bona fide veterinary or animal husbandry purpose, the insertion, however slight, of any part of the body of a person or any object into the vaginal or anal opening of an animal, or the insertion of any part of the body of an animal into the vaginal or anal opening of a person.

Sets forth several exceptions relating to lawful and accepted veterinary practices, the artificial insemination of animals for reproductive purposes, and accepted animal husbandry practice such as raising, breeding, or assisting with the birthing process of animals.

Permits any officer investigating a violation of this section to seize a victim animal to protect the health and safety of the animal or to obtain evidence of the crime. Requires that a seized animal be taken promptly to a shelter or veterinary clinic to be examined by a veterinarian for evidence of sexual contact.

Requires a court, upon conviction, to declare any seized animal forfeited. Requires that forfeited animals be transferred to the impounding officer or appropriate public entity for proper adoption or other disposition.

continued

Provides that a convicted person is personally liable to the seizing agency for all costs of impoundment from the time of seizure to the time of disposition. Requires the court to order a convicted defendant to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of seized or impounded animals. Provides that the payment is in addition to any other fine or sentence ordered by the court.

[This bill also amends P.C. 597.9(a) to add P.C. 286.5 to the list of crimes for which a convicted person is prohibited from owning or possessing an animal within five years of the conviction. A violation of P.C. 597.9(a) is an infraction. See P.C. 597.9, below.]

[According to the legislative history of this bill, the lack of a definition of “sexual assault” in P.C. 286.5 was a loophole that prevented conviction in some cases. This bill closes that loophole with its definition of “sexual contact.” The purpose of prohibiting sexual contact for purposes of financial gain to stop people from selling or renting animals for the purposes of sexual contact.]

P.C. 320.6
(Amended)
(Ch. 29) (SB 82)
(Effective 6/27/2019)

In subdivision (o), eliminates the authority of DOJ to be reimbursed for all costs incurred in reviewing and evaluating the raffle reports of organizations participating in the Major League Sports Raffle Program.

[P.C. 320.6 permits non-profit organizations established by professional sports teams (e.g., Major League Baseball, National Football League, Women’s National Basketball Association, Ladies Professional Golf Association) to conduct raffles for charitable purposes. P.C. 320.6 continues to permit DOJ to audit the records and documents of a raffle-eligible organization, to ensure compliance with P.C. 320.6. This bill eliminates the subparagraph that had provided that DOJ was entitled to reimbursement from the organization for the costs of auditing raffle reports.]

P.C. 368.5
(Amended)
(Ch. 641) (SB 338)
(Effective 1/1/2020)

Eliminates the duty imposed on a long-term care ombudsman program to revise or include in their policy manuals specified information regarding elder and dependent adult abuse.

P.C. 368.6

(New)

(Ch. 641) (SB 338)

(Effective 1/1/2020)

The Senior and Disability Justice Act.

Authorizes a law enforcement agency to adopt a policy regarding senior and disability victimization. Defines “senior and disability victimization” as elder and dependent adult abuse; unlawful interference with a mandated report; homicide of an elder, dependent adult, or other adults and children with disabilities; child abuse of children with disabilities; violation of relevant protective orders; hate crimes against persons with actual or perceived disabilities; or domestic violence against elders, dependent adults, and adults and children with disabilities.

Requires a municipal police department or county sheriff’s department that adopts or revises a policy regarding elder and dependent adult abuse, or senior and disability victimization, on or after April 13, 2021, to include 28 items, including but not limited to, the following:

1. the prevalence of elder and dependent adult abuse and sexual assault, homicide, and other crimes against the disabled;
2. a statement of the agency’s commitment to providing equal protection and demonstrating respect for all persons regardless of age or disability, and to conscientiously enforce all criminal laws protecting elders and the disabled, regardless of whether those crimes carry civil penalties;
3. the definitions and elements of offenses in P.C. 288(b)(2) (forcible lewd act by a caretaker on a dependent person) and P.C. 368 (elder and dependent adult physical or financial abuse), noting that they protect victims even if they live independently;
4. the fact that elder / dependent adult abuse and other crimes, when committed in whole or in part because of the victim’s actual or perceived disability, including disability caused by advanced age, are also hate crimes;
5. a schedule for training officers on materials made available by the Commission on Peace Officer Standards and Training (POST) and on the particular agency’s policy pursuant to this new section;
6. a policy that a victim or witness with deafness or hearing loss will be provided an interpreter for a law enforcement interview;
7. the fact that the agency requires officers to investigate every report of senior and disability victimization, and does not dismiss any report as merely a civil matter;

continued

8. an appendix to the policy that describes the protocols and techniques for investigating crimes against seniors and disabled persons;
9. the agency's protocol for arrests for senior and disabled person victimization other than domestic violence. Requires that an agency make a warrantless arrest based on probable cause in these situations: (1) senior or disabled person victimization committed in the officer's presence when the arrest is necessary or advisable to protect the safety of the victim or others; or (2) in the case of a felony not committed in an officer's presence, when the arrest is necessary or advisable to protect the safety of the victim or others; and
10. a detailed checklist of first-responding officers' responsibilities.

[According to the legislative history of this bill, it is largely based on San Diego County's Elder and Dependent Adult Abuse Blueprint, which is a written set of goals, guidelines, model practices, and responses by law enforcement for the treatment and enforcement of elder and dependent adult abuse cases.]

P.C. 487k
 (New)
 (Ch. 119) (SB 224)
 (Effective 1/1/2020)

Creates a separate grand theft crime for agricultural equipment: stealing, taking, or carrying away a tractor, all-terrain vehicle, or other agricultural equipment, or any portion thereof, used in the acquisition or production of food for public consumption, which is of a value exceeding \$950. Pursuant to existing P.C. 489(c), this new grand theft is punishable by 16 months, two years, or three years in jail pursuant to P.C. 1170(h) or by up to one year in jail. This bill also amends P.C. 489 to add that in a county participating in a rural crime prevention program, the proceeds of a fine imposed for a conviction of P.C. 487k shall be allocated by the Controller, upon appropriation by the Legislature, to the Central Valley Rural Crime Prevention Program (P.C. 14170–14175) or to the Central Coast Rural Crime Prevention Program (P.C. 14180–14182).

[The purpose of the bill is to be able to better track the theft of agricultural equipment and to have the fines imposed for this type of theft go to rural crime prevention programs.]

P.C. 489
(Amended)
(Ch. 119) (SB 224)
(Effective 1/1/2020)

Provides that the proceeds of a fine imposed for a conviction of new P.C. 487k shall be allocated by the Controller, upon appropriation by the Legislature, to the Central Valley Rural Crime Prevention Program (P.C. 14170–14175) or to the Central Coast Rural Crime Prevention Program (P.C. 14180–P.C. 14182). This bill also creates new P.C. 487k, a separate grand theft crime for agricultural equipment: stealing, taking, or carrying away a tractor, all-terrain vehicle, or other agricultural equipment, or any portion thereof, used in the acquisition or production of food for public consumption, which is of a value exceeding \$950.

See P.C. 487k, above.

[The purpose of the bill is to be able to better track the theft of agricultural equipment and to have the fines imposed for this type of theft go to rural crime prevention programs.]

P.C. 490.4
(Amended)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Extends, for six months, the sunset date for the felony crime of Organized Retail Theft from January 1, 2021 to July 1, 2021. (P.C. 490.4 contains several felony theft crimes relating to acting in concert to steal merchandise or to receive stolen merchandise, acting as an agent of another person in order to steal merchandise, or recruiting another person to steal merchandise or to receive stolen merchandise.)

P.C. 502
(Amended)
(Ch. 16) (AB 814)
(Effective 1/1/2020)

Adds that “computer system” includes, without limitation, any device or system that is located within, connected to, or otherwise integrated with, a motor vehicle. Thus, the various computer crimes set forth in P.C. 502 apply to accessing without permission, altering, damaging, destroying, etc., the computer system of a motor vehicle.

[According to the legislative history of this bill, its purpose is to clarify that motor vehicle computer systems are included in P.C. 502. The concern being addressed is the hacking of a vehicle’s computer to remotely take control of a vehicle, especially an autonomous vehicle.]

P.C. 529.5
(Amended)
(Ch. 505) (SB 485)
(Effective 1/1/2020)

Eliminates subdivision (d) which had permitted a court to suspend a driver's license for up to one year pursuant to V.C. 13202.5 when a person under age 21 and at least age 13 was convicted of P.C. 529.5 in adult or juvenile court. P.C. 529.5 is the misdemeanor crime of possessing, manufacturing, selling, or transferring, a false document purporting to be a government-issued identification card or driver's license.

This bill eliminates driver's license suspension as a penalty for a number of crimes. The legislative history of the bill states that its goal is to prohibit driver's license suspension for non-vehicle related crimes. However, a number of provisions repealed by this bill specifically required that a vehicle be involved in order for a driver's license to be suspended.

Based on uncodified Section 15 of the bill, a defendant who commits a crime before January 1, 2020 but who is not convicted or sentenced until January 1, 2020 or later, would not be subject to driver's license suspension based on a repealed provision. And a defendant who is convicted before January 1, 2020 but not sentenced until January 1, 2020 or later, would not be subject to driver's license suspension based on a repealed provision. Any court order issued *before* January 1, 2020, suspending or restricting a license, or ordering the Dep't of Motor Vehicles (DMV) to suspend or restrict a license, remains valid and is not affected by the repeal.

Uncodified Section 15 of the bill reads as follows:

“(a) This act is not intended to affect any order issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person. This act is also not intended to affect any action taken by the Department of Motor Vehicles, whether before, on, or after January 1, 2020, pursuant to an order issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person.

“(b) This act is intended to remove the authority of the court to suspend, delay, or otherwise restrict the driving privilege, and to remove the authority of the court to order the Department of Motor Vehicles to suspend, delay, or otherwise restrict the driving privilege, of the following persons pursuant to this act:

continued

“(1) Persons who are convicted, on or after January 1, 2020, of an offense described in this act that would have been subject to the suspension, delay, or restriction.

“(2) Persons who were convicted, before January 1, 2020, of an offense described in this act that would have been subject to the suspension, delay, or restriction, but for whom an order was not issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict their driving privilege.”

P.C. 529.6
(New)
(Ch. 831) (AB 1563)
(Effective 1/1/2020)

Creates a section that shall be known as the “Freedom to Count Act.” It contains two new misdemeanor crimes related to the federal census:

1. Falsely representing one’s self as a census taker with the intent to interfere with the operation of the census or with the intent “to obtain information or consent to an otherwise unlawful search and seizure.”
2. Falsely assuming some or all of the activities of a census taker with the intent to interfere with the operation of the census or with the intent “to obtain information or consent to an otherwise unlawful search and seizure.”

Provides that both misdemeanors are punishable by up to one year in jail and/or by a fine of up to \$1,000, or both.

[This bill also creates new Gov’t C. 12127.8, which authorizes the Secretary of State to work with the California Census Office and the California Complete Count Committee to promulgate, by February 1, 2020, a “California Census Bill of Rights and Responsibilities.” See the Government Code section of this digest for more information.]

[The legislative history of this bill indicates the Legislature’s concern is that police, public employees, or ICE (Immigration & Customs Enforcement) agents will impersonate census takers in order to obtain information that can be used for deportations.]

<p>P.C. 597 P.C. 597.1 P.C. 597.2 P.C. 597e P.C. 597u P.C. 597v P.C. 599aa P.C. 599e (Amended) (Ch. 7) (AB 1553) (Effective 1/1/2020)</p>	<p>Makes technical, non-substantive amendments to update the terminology used to reference the seizure, rescue, adoption, and euthanasia of animals. Changes “pound” to “animal shelter,” changes “killed” to “humanely euthanized,” and changes “destroy” to “euthanize.”</p> <p>[This bill makes similar amendments to provisions of the Business & Professions Code, Civil Code, Corporations Code, Food & Agricultural Code, Government Code, and Health & Safety Code.]</p>
<p>P.C. 597.9 (Amended) (Ch. 613) (AB 611) (Effective 1/1/2020)</p>	<p>Amends subdivision (a) to expand the infraction crime of owning or possessing an animal within five years of a conviction for a specified crime relating to animals, by adding P.C. 286.5 convictions to the list of convictions that trigger this five-year prohibition. P.C. 286.5 is the misdemeanor crime of sexual contact with an animal. A violation of P.C. 597.9(a) remains an infraction punishable by a fine of up to \$1,000.</p> <p>[This bill also amends P.C. 286.5 to expand the crime of sexual contact with an animal. See P.C. 286.5, above.]</p>
<p>P.C. 597f (Repealed) (Ch. 256) (SB 781) (Effective 1/1/2020)</p>	<p>Repeals this section, which pertains to abandoned or neglected animals and euthanasia, because its provisions are already included in existing P.C. 597.1, which is not being repealed.</p>
<p>P.C. 600.2 P.C. 600.5 (Amended) (Ch. 604) (AB 169) (Effective 1/1/2020)</p>	<p>Expands both of these crimes, which apply to the injury of a guide, signal, or service dog, to apply to an injury that occurs at any time, even when the dog is not on duty or in service. Also expands restitution provisions in both sections.</p> <p>Existing P.C. 600.2 contains the infraction and misdemeanor crimes of permitting one’s dog to injure or kill a guide, signal, or service dog while the dog is discharging its duties. Existing P.C. 600.5 is the misdemeanor crime of a person intentionally causing injury to or the death of a guide, signal, or service dog while the dog is discharging its duties. Both sections are amended to eliminate the requirement that the dog be on duty, thereby applying P.C. 600.2 and 600.5 crimes to the injury to or death of a guide, signal, or service dog that is off duty or in training.</p>

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The restitution provisions of both sections are expanded beyond veterinary bills and the replacement cost of the dog to now include the medical expenses and lost wages or income of the disabled person who owns the guide dog.

Added to both sections are definitions of “guide, signal, or service dog,” “loss of wages and income,” and “replacement costs.” Provides that the replacement cost of a guide, signal, or service dog includes the training costs for a new dog, the cost of keeping the now-disabled dog in a kennel while the handler travels to receive a new dog, and the cost of travel to receive the new dog. Defines guide, signal, or service dogs as including dogs enrolled in a training school or program.

P.C. 629.78
(Amended)
(Ch. 645) (SB 439)
(Effective 1/1/2020)

Adds administrative or disciplinary hearings involving the employment of a peace officer to the list of proceedings (a criminal court proceeding or grand jury proceeding) in which an intercepted communication captured during a lawful wiretap may be used.

The purpose of the bill is to permit the use of evidence of a peace officer’s criminal conduct obtained during a lawful wiretap, in an administrative or disciplinary hearing against that officer. A person testifying under oath in a criminal court proceeding, a grand jury proceeding, or in an administrative or disciplinary hearing involving the employment of a peace officer, may disclose the contents of a wire or electronic communication, or evidence derived therefrom, that was intercepted lawfully pursuant to P.C. 629.50–629.98.

According to the legislative history of this bill, it is a response to the depublished case of *County of Los Angeles v. Los Angeles County Civil Service Commission (Arellano)* (2018) 22 Cal.App.5th 473. In this case, law enforcement legally intercepted evidence during a drug trafficking wiretap, showing that an officer was engaging in the illegal cultivation of marijuana. The sheriff’s department attempted to use the intercepted calls during an administrative hearing to terminate the officer. The hearing officer granted the officer’s motion to suppress the calls. The appellate court ruled that the wiretap evidence was not authorized to be disclosed in an administrative hearing.

[This bill also amends P.C. 629.82. See below.]

P.C. 629.82
(Amended)
(Ch. 645) (SB 439)
(Effective 1/1/2020)

Amends subdivision (a) to expand the list of crimes to which this section applies by adding grand theft involving a firearm, P.C. 18750 (exploding a destructive device that causes bodily injury), and 18755 (exploding a destructive device that causes death, mayhem, or great bodily injury). This section lists the crimes for which evidence obtained by way of a wiretap may be disclosed and is admissible, even if the crime is not specified in the particular wiretap authorization. Previously, P.C. 629.82(a) specified that these other crimes were those enumerated in P.C. 629.52(a) (e.g., specified drug crimes, murder, gang crimes, human trafficking, destructive device crimes) and violent felonies listed in P.C. 667.5(c)). Added to these crimes now are grand theft involving a firearm, P.C. 18750 and 18755. (The only real new addition is grand theft involving a firearm. Both P.C. 18750 and 18755 were already listed in P.C. 629.52(a). And both were already listed as violent felonies in P.C. 667.5(c)(13).)

New subdivision (d) adds that if an officer intercepts wire or electronic communications relating to crimes other than those specified in P.C. 629.82(a) and involving the employment of a peace officer, the contents of those communications, and evidence derived therefrom, cannot be disclosed or used except to prevent the commission of a public offense or in an administrative or disciplinary hearing involving the employment of a peace officer. Prohibits the evidence from being used in a criminal court proceeding or grand jury proceeding unless it was obtained through an independent source or inevitably would have been discovered, and the use is authorized by a judge who finds that the contents were intercepted in accordance with P.C. 629.50–629.98.

Prohibits the use of an intercepted wire or electronic communication involving acts that only involve a violation of a department rule or guideline that is not a public offense under California law.

Requires an agency that employs peace officers and uses wiretap evidence in an administrative or disciplinary proceeding to report annually to the Attorney General, the following:

1. The number of administrative or disciplinary proceedings involving the employment of a peace officer

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in which the agency utilized evidence obtained pursuant to P.C. 629.82(d); and

2. The specific offenses for which evidence obtained pursuant to subdivision (d) was used in those administrative or disciplinary proceedings.

[This bill also amends P.C. 629.78. See above for a description of the amendment and information about the case of *County of Los Angeles v. Los Angeles County Civil Service Commission (Arellano)*.]

P.C. 629.98
(Amended)
(Ch. 607) (AB 304)
(Effective 1/1/2020)

Extends the sunset date on wiretapping statutes (P.C. 629.50–629.98) from January 1, 2020 to January 1, 2025, keeping these statutes in operation for an additional five years.

P.C. 647
(Amended)
(Ch. 505) (SB 485)
(Effective 1/1/2020)

P.C. 647(j)(1) (AB 1129)

AB 1129 amends P.C. 647(j)(1) to add electronic devices and unmanned aircraft systems (e.g., drones) to the list of instrumentalities (camera, camcorders, binoculars, mobile phones, etc.) that may not be used to invade the privacy of a person in a bedroom, bathroom, changing room, or any other place where the person has a reasonable expectation of privacy.

and

(Amended)
(Ch. 749) (AB 1129)
(Effective 1/1/2020)

P.C. 647(j)(1) is the misdemeanor crime of looking through a hole or opening, into, or otherwise viewing, by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, camera, motion picture camera, camcorder, mobile phone, (and now an electronic device or unmanned aircraft system), the interior of a bedroom, bathroom, changing room, fitting room, dressing room, tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person inside.

[The legislative history of the bill expresses the Legislature’s goal that P.C. 647(j)(1) be modernized to keep up with newly emerging technology.]

P.C. 647(k) (SB 485)

SB 485 eliminates subdivision (k) which had permitted a court to suspend a driver’s license for up to 30 days for a

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conviction of P.C. 647(b) (prostitution) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of suspension, a court was permitted to restrict a defendant's driver's license for six months.

SB 485 eliminates driver's license suspension as a penalty for a number of crimes. The legislative history of the bill states that its goal is to prohibit driver's license suspension for non-vehicle related crimes. However, a number of provisions repealed by this bill, such as P.C. 647(k), specifically required that a vehicle be involved in order for a driver's license to be suspended.

Based on uncodified Section 15 of SB 485, a defendant who commits a crime before January 1, 2020 but who is not convicted or sentenced until January 1, 2020 or later, would not be subject to driver's license suspension based on a repealed provision. And a defendant who is convicted before January 1, 2020 but not sentenced until January 1, 2020 or later, would not be subject to driver's license suspension based on a repealed provision. Any court order issued *before* January 1, 2020, suspending or restricting a license, or ordering the Dep't of Motor Vehicles (DMV) to suspend or restrict a license, is valid and not affected by SB 485.

Uncodified Section 15 of SB 485 reads as follows:

“(a) This act is not intended to affect any order issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person. This act is also not intended to affect any action taken by the Department of Motor Vehicles, whether before, on, or after January 1, 2020, pursuant to an order issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person.

“(b) This act is intended to remove the authority of the court to suspend, delay, or otherwise restrict the driving privilege, and to remove the authority of the court to order the Department of Motor Vehicles to suspend, delay, or otherwise restrict the driving privilege, of the following persons pursuant to this act:

“(1) Persons who are convicted, on or after January 1, 2020, of an offense described in this act that would have been subject to the suspension, delay, or restriction.

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“(2) Persons who were convicted, before January 1, 2020, of an offense described in this act that would have been subject to the suspension, delay, or restriction, but for whom an order was not issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict their driving privilege.”

P.C. 647.3
(New)
(Ch. 141) (SB 233)
(Effective 1/1/2020)

Prohibits the arrest of a person for a misdemeanor drug crime (H&S 11000–11651), or for a violation of P.C. 372, 647(a), 647(b), or 653.22 related to an act of prostitution, if the person reports being a victim of, or a witness to, a specified crime, and the drug or prostitution offense is related to the crime the person is reporting, or the person was engaging in the drug or prostitution offense at or around the time the person was a victim or witness. (P.C. 372 is the crime of maintaining a public nuisance, 647(a) is the crime of committing a lewd act in public, 647(b) is the crime of prostitution, and 653.22 is the crime of loitering with the intent to commit prostitution.) The specified reported crimes are a P.C. 1192.7(c) serious felony, felony P.C. 245(a) assault, P.C. 273.5 domestic violence, P.C. 518 extortion, P.C. 236.1 human trafficking, P.C. 243.4(a) sexual battery, and P.C. 646.9 stalking.

P.C. 647.3 also provides that the possession of condoms in any amount “shall not provide a basis for probable cause for arrest” for a violation of P.C. 372, 647(a), 647(b), or 653.22 if the offense is related to prostitution.

[This bill also amends Evidence C. 782.1 to prohibit the admission into evidence of condom possession in a prosecution for P.C. 372 maintaining a public nuisance, P.C. 647(a) lewd act in public, P.C. 647(b) prostitution, or P.C. 653.22 loitering with the intent to commit prostitution, if the offense is related to prostitution. See Evidence C. 782.1 in the Evidence Code section of this digest. This bill also amends Evidence C. 1162 to expand the list of crimes that trigger immunity from prosecution for prostitution when a person who was a victim of, or witness to, a specified crime, engages in an act of prostitution at or around the time he or she was a victim or witness. See Evidence C. 1162 in the Evidence Code section of this digest.]

[This bill codifies the practice of the San Francisco District Attorney’s Office of not filing prostitution charges against victims or witnesses of specified crimes. According to the

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legislative history of this bill, its purpose is to help “sex workers” feel safe reporting crimes and carrying condoms. The legislative history claims that “the criminalization of prostitution results in sex workers largely not trusting law enforcement due to fear that they will be arrested or mistreated ... Research is clear that sex workers must be able to carry condoms without fear that they will be confiscated or used to criminalize them to avoid exacerbating an already unsafe work environment or worsening our public health crisis.”]

P.C. 653o
(Amended)
(Ch. 767) (AB 1260)
(Effective 1/1/2022)

Beginning January 1, 2022, expands the misdemeanor crime of importing into California for commercial purposes, possessing with the intent to sell, or selling, the dead body or part of the dead body of a specified animal, by adding the dead body or dead body part of an iguana, skink, caiman, hippopotamus, or a Teju, Ring, or Nile lizard. (A skink is a type of lizard and a caiman is very similar to alligators and crocodiles.) Other animals already specified in this section include polar bear, leopard, tiger, wolf, zebra, whale, cobra, python, sea turtle, kangaroo, sea otter, feral horse, elephant, dolphin, porpoise, alligator, and crocodile.

This misdemeanor crime continues to be punishable by up to six months in jail and /or by a fine of between \$1,000 and \$5,000, or both.

[According to the legislative history of the bill, the goal is to protect exotic animals, thousands of which are killed every year for their skins.]

P.C. 667.5
(Amended)
(Ch. 590) (SB 136)
(Effective 1/1/2020)

Amends subdivision (b) to eliminate almost all one-year P.C. 667.5(b) prison prior enhancements. (The three-year prison prior enhancement in P.C. 667.5(a) survives. It continues to apply when a defendant has a current conviction for a violent felony and a prison prior for a violent felony.)

Beginning January 1, 2020, a one-year P.C. 667.5(b) prison prior enhancement will apply only where the defendant has a prior state prison term for a sexually violent offense listed in W&I 6600(b). W&I 6600(b) defines a sexually violent offense as these crimes if force, fear, or the threat to retaliate is involved: P.C. 261, 262, 264.1, 269, 286, 287, 288, 288.5, 289, former P.C. 288a; or P.C. 207, 209, or 220 committed with the intent to commit a sex crime.

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Because the amendment is a lessening of punishment, it will apply to all cases where the conviction is not final as of January 1, 2020 (just as SB 180, which eliminated almost all H&S 11370.2 three-year drug prior enhancements effective January 1, 2018, applied to all cases where the conviction was not final as of 1/1/2018). The traditional one-year P.C. 667.5(b) prison prior will not be able to be imposed on any defendant who is convicted or sentenced on or after 1/1/2020, regardless of when the crime was committed. For example, a defendant who absconded years ago and is now apprehended will be able to take advantage of the elimination of one-year prison priors. Defendants whose cases are on appeal will also be able to take advantage of SB 136. The 60-day appellate period for a defendant sentenced on or after early November will not have run by November 1, 2020, meaning that SB 136 will apply to these defendants, too.

SB 136 had broad opposition from law enforcement and barely passed the Legislature. The vote was 41-37-1 in the Assembly and 22-16-2 in the Senate. The various bill analyses state that “repealing this ineffective and costly one-year sentence enhancement will annually save our state over \$1 billion dollars while simultaneously ensuring that each person is treated the same under the law.” Law enforcement pointed out that repeat offenders should *not* be sentenced the same as first-time offenders.

P.C. 679.10
P.C. 679.11
(Amended)
(Ch. 576) (AB 917)
(Effective 1/1/2020)

Makes changes to U-Visa (P.C. 679.10) and T-Visa (P.C. 679.11) procedures that speed up the process for non-citizen victims of specified crimes to obtain a declaration of cooperation in order to help them obtain a visa to remain in the United States. P.C. 679.10 applies to victims of specified crimes (such as sexual assault, domestic violence, kidnapping, murder, stalking, etc.) and P.C. 679.11 applies to human trafficking victims. The procedures for both statutes are almost identical.

Reduces the time that a certifying entity has to process a declaration of cooperation from within 90 days of the request to within 30 days of request. If the non-citizen victim is in removal proceedings, reduces the time for processing from within 14 days of the request to within 7 days of the first business day following the day the request was received.

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Adds a licensed attorney representing the victim or a representative fully accredited by the U.S. Dep't of Justice authorized to represent the victim in immigration proceedings, to the list of those (the victim or a victim's family member) who may request that the victim's cooperation/helpfulness be certified.

Requires a law enforcement agency to provide a copy of the police report within seven days of a request by the victim, a licensed attorney representing the victim, or a representative fully accredited by the U.S. Dep't of Justice authorized to represent the victim in immigration proceedings. (This new subdivision was added to P.C. 679.10 but not to P.C. 679.11.)

Defines "representative fully accredited by the United States Department of Justice" as a person who is approved by the U.S. Dep't of Justice to represent individuals before the Board of Immigration Appeals, the immigration courts, or the Dep't of Homeland Security, and who works for a specific non-profit, religious, charitable, social service, or similar organization that has been recognized by the U.S. Dep't of Justice to represent those individuals.

P.C. 680
(Amended)
(Ch. 588) (SB 22)
(Effective 1/1/2020)

Makes mandatory the existing provisions regarding the handling and testing of rape kits by changing the word "should" to "shall" in order to address California's rape kit backlog.

Requires law enforcement agencies to submit sexual assault forensic evidence to a crime lab within 20 days after it is booked into evidence, or, to ensure that a rapid turnaround DNA program is in place so that forensic evidence collected from a sexual assault victim can be submitted directly from a medical facility where the victim is examined to the crime lab within five days of the evidence being obtained from the victim.

Requires crime labs to process sexual assault forensic evidence, create DNA profiles when able, and upload qualifying DNA profiles into CODIS (Combined DNA Index System) within 120 days of receiving the evidence, or, to transmit the evidence to another crime lab within 30 days for DNA testing. Requires that if a DNA profile is created by the second lab, the transmitting lab must upload the profile in CODIS within 30 days of being notified about the presence of DNA.

P.C. 784.8
(New)
(Ch. 206) (SB 304)
(Effective 1/1/2020)

Authorizes felony violations of P.C. 368(d) and (e) (theft, embezzlement, forgery, fraud, or identity theft against an elder or dependent adult) to be tried together in one jurisdiction even if committed in different counties, if the district attorneys of all counties agree. New P.C. 748.8 is modeled after existing P.C. 784.7, which permits specified sexual assault, domestic violence, child endangerment, stalking, human trafficking, pimping, and pandering crimes to be tried in one county if all district attorneys in the affected counties agree.

As with P.C. 784.7, new 784.8 provides that felony violations of P.C. 368(d) or 368(e) occurring in different counties may be tried together, along with other properly joinable offenses, in any county where at least one P.C. 368(d) or 368(e) occurred. Requires the prosecution to present written evidence that all district attorneys in counties with jurisdiction of the P.C. 368(d)/(e) offenses agree to the venue. As with P.C. 784.7, in determining whether all counts should be joined for prosecution in one county, the court must consider the location and complexity of the likely evidence, where the majority of the offenses occurred, the rights of the defendant and people, and the convenience of, or hardship to, the victim(s) and witness(es).

P.C. 786.5
(Amended)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Extends, for six months, the sunset date for this theft jurisdiction section from January 1, 2021 to July 1, 2021. [Existing P.C. 786.5 provides that the jurisdiction for theft offenses or P.C. 490.4 (organized retail theft) or P.C. 496 (receiving or possessing of stolen property), includes the county where the theft or receipt of stolen merchandise occurred, the county in which the merchandise was recovered, or the county where any act was done by the defendant in instigating, procuring, promoting, or aiding in the commission of a theft offense, P.C. 490.4, or 496. Existing P.C. 786.5 also provides that if multiple offenses of theft, P.C. 490.4, or 496 occur in multiple jurisdictions, and either all involve the same defendant or defendants and the same merchandise, **or** all involve the same defendant or defendants and the same scheme or substantially similar activity, then any of the jurisdictions is a proper jurisdiction for all offenses. P.C. 786.5 also provides that jurisdiction extends to all “associated offenses” connected together in their commission to the underlying theft, to P.C. 490.4, or to 496 offenses.]

P.C. 803.7
(New)
(Ch. 546) (SB 273)
(Effective 1/1/2020)

The Phoenix Act.

Extends the statute of limitations for prosecuting P.C. 273.5 domestic violence crimes to five years. (Previously, the general three-year statute of limitations provided for in P.C. 801 applied to felony violations of P.C. 273.5 and the general one-year statute of limitations provided for in P.C. 802 applied to misdemeanor violations of P.C. 273.5.) Now prosecution for any felony or misdemeanor violation of P.C. 273.5 may be commenced within five years of the commission of the crime.

Provides that this new provision applies to crimes committed on or after January 1, 2020, *and to* crimes for which the statute of limitations had not run as of January 1, 2020.

P.C. 830.5
(Amended)
P.C. 830.53
(New)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

As of July 1, 2020, removes parole officers/agents in the Division of Juvenile Parole Operations or with the Juvenile Parole Board, and correctional officers employed by the Division of Juvenile Justice, from the list of peace officers in P.C. 830.5 and puts them with new titles into new P.C. 830.53, consistent with other provisions of this bill (Gov't C. 12820–12838) that move the Division of Juvenile Justice and the Board of Juvenile Hearings from CDCR and re-establishes them as the Dep't of Youth and Community Restoration under the California Health and Human Services Agency. The transfer is required to start on July 1, 2019 and to be completed by July 1, 2020.

Beginning July 1, 2020, new P.C. 830.53 provides that a youth correctional officer employed by the Dep't of Youth and Community Restoration (DYCR), a youth correctional counselor series employee of DYCR, an employee of DYCR designated by the director, and any superintendent, supervisor, or employee having custodial responsibilities in an institution or camp operated by DYCR is a peace officer whose authority extends to any place in California while engaged in the performance of his or her duties. Permits specified DYCR employees to carry firearms while *not* on duty (correctional officers and correctional counselors).

P.C. 832.19
(New)
(Ch. 579) (AB 1215)
(Effective 1/1/2020)

Bans the use of facial recognition technology and biometric scanning on police body-worn cameras.

Prohibits a law enforcement agency or law enforcement officer from installing, activating, or using any biometric surveillance system in connection with a body-worn camera or data collected by a body-worn camera. The purpose of the bill is to prohibit law enforcement from using facial recognition technology and biometric scanning through their body cameras.

Defines “biometric surveillance system” as any computer software or application that performs facial recognition or other biometric surveillance. Defines “biometric data” as a physiological, biological, or behavioral characteristic that can be used to establish identity. Defines “surveillance information” as any information about a known or unknown individual, including, but not limited to, a person’s name, date of birth, gender, or criminal background; or, any information derived from biometric data, including, but not limited to, assessments about an individual’s sentiment, state of mind, or level of dangerousness.

Permits “a person” to bring an action for equitable or declaratory relief against a law enforcement officer or law enforcement agency that violates this section.

Provides that new P.C. 832.19 does *not* preclude the use of a mobile fingerprint scanning device during a lawful detention to identify a person who does not have proof of identification, as long as no biometric data or surveillance information is retained.

Provides that new P.C. 832.19 will remain in effect only until January 1, 2023.

Uncodified Section One of the bill contains the Legislature’s findings and declarations, which claim that facial recognition and other biometric surveillance technology “pose a unique and significant threat to civil rights and civil liberties,” and that they are “the functional equivalent of requiring every person to show a personal photo identification card at all times in violation of recognized constitutional rights.” Law enforcement opposed this bill, pointing out that courts have repeatedly held that people on public streets or in public places have no reasonable expectation of privacy; that the

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bill should establish minimum standards and policies related to facial recognition and body-worn cameras but not ban such technology; that banning the use of facial recognition impairs the ability of law enforcement to protect the public; and that huge public events such as festivals, World Cup Soccer, the Olympics, Disneyland, etc., should have the best available security.

P.C. 835a
(Amended)
(Ch. 170) (AB 392)
(Effective 1/1/2020)

Amends provisions pertaining to the use of force by peace officers.

Reasonable Force (P.C. 835a(b))

Adds the word “objectively” to this existing sentence about the use of force to effect an arrest: “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.”

Justification for the Use of Deadly Force (P.C. 835a(c))

New subdivision (c) adds that a peace officer is justified in using deadly force upon another person “only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:

“(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, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.”

Adds that 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.”

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Retreating and Self-Defense (P.C. 835a(d))

Retains the sentence providing that a peace officer need not retreat or desist from making an arrest by reason of the resistance or threatened resistance of the person being arrested. Adds that “retreat” does not mean tactical repositioning or other de-escalation tactics.

Amends the sentence that previously provided that a peace officer shall not be deemed an aggressor or lose the right to self-defense when reasonable force is used to effect an arrest, prevent an escape, or overcome resistance, by adding the word “objectively”: “A peace officer shall not be deemed an aggressor or lose the right of self-defense by the use of *objectively* reasonable force in compliance with subdivisions (b) and (c) to effect the arrest or to prevent escape or to overcome resistance.”

Definitions (P.C. 835a(e))

Subdivision (e) adds definitions of “deadly force,” “imminent,” and “totality of the circumstances.” However, there is no definition of “necessary.” [Subdivision (c)(1) permits deadly force when an officer reasonably believes, based on the totality of the circumstances, that such force is “necessary.”]

“Deadly force” is defined as “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.”

Provides that a threat of death or serious bodily injury is imminent when, “based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”

Defines “totality of the circumstances” as “all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.”

[Subdivision (a) sets forth the Legislature’s findings and declarations, including the following:

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1. "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."
2. "[T]he decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policies."
3. "[T]he decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight" and "the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force."
4. "[I]ndividuals with physical, mental health, developmental, or intellectual disabilities are significantly more likely to experience greater levels of physical force during police interactions, as their disability may affect their ability to understand or comply with commands from peace officers. It is estimated that individuals with disabilities are involved in between one-third and one-half of all fatal encounters with law enforcement."]

[This bill also amends P.C. 196. See P.C. 196, above.]

[Reaction to the bill in its final form has been interesting. Supporters of the bill see it as a landmark change that makes California's use-of-force standard among the most stringent in the country. Police agencies note that de-escalation, crisis intervention, and when and how to use force are already a part of police training. Some use-of-force reform advocates who originally supported the bill pulled their support after amendments were made, stating that nothing is going to change based on the new law.]

P.C. 851.7
 (Amended)
 (Ch. 50) (AB 1537)
 (Effective 1/1/2020)

Adds a new subdivision (g) to permit prosecutors to access records sealed pursuant to this section so that they can comply with statutory and constitutional obligations to disclose favorable or exculpatory evidence to a criminal defendant. (Pursuant to the U.S. Supreme Court case of

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Brady v. Maryland (1963) 373 U.S. 83 and other authorities, prosecutors have a duty to disclose favorable or exculpatory evidence to criminal defendants.)

New subdivision (g) provides that a record sealed pursuant to P.C. 851.7 may be accessed, inspected, or utilized by the prosecuting attorney in order to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case in which the prosecuting attorney has reason to believe that access to the record is necessary to meet the disclosure obligation. Existing P.C. 851.7 permits a person arrested for a specified misdemeanor crime while a minor to petition the court for an order sealing the record if the person was acquitted, or if the case was dismissed, or if the person was discharged without a conviction, or if the person was released pursuant to P.C. 849(b)(1) (which permits a peace officer to release from custody a person arrested without a warrant instead of taking him/her to a magistrate, if the officer is satisfied there are insufficient grounds for a criminal complaint.)

Requires the prosecutor to submit to the juvenile court a request to access information. Requires that the request include the date by which the records are needed and the prosecutor's rationale for believing that access to the information may be necessary to meet the disclosure obligation. Requires the juvenile court to review the case file and records that are referenced by the prosecutor and review any response by the person who has the sealed record. Requires the court to approve the prosecutor's request to the extent the court determines that access to a sealed record or portion of a sealed record is necessary to enable the prosecuting attorney to comply with the disclosure obligation.

If the juvenile court approves the prosecutor's request, the court must state on the record appropriate limits on the access, inspection, and utilization of the sealed record information in order to protect the confidentiality of the person whose sealed record is accessed. Provides that a ruling allowing disclosure does not affect whether the information is admissible in a criminal or juvenile proceeding. Also provides that this new subdivision does not impose any discovery obligations on a prosecutor that do not already exist. Provides that this new subdivision does *not* apply to W&I 300 juvenile dependency case files.

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[The purpose of this amendment is to make sure that prosecutors can actually comply with their duty to disclose favorable or exculpatory information that may exist in a record that has been sealed because the subject of the sealed record was a minor at the time of arrest and was never convicted. A prosecutor may wish to call a witness in a current criminal case who was previously charged with juvenile conduct in a separate proceeding. If that record has been sealed pursuant to P.C. 851.7, then the prosecutor cannot access that information without authority to do so, which this amendment now provides, if the prosecutor has reason to believe that the sealed record contains information that should be disclosed. For example, the prosecutor may have reason to believe that the sealed record indicates the witness was dishonest with law enforcement in the earlier proceeding.]

[This bill borrows existing language from W&I 781 and 786 and adds some language to those two sections. It also adds the same language to W&I 793, so that all four sections are now consistent. See the Juvenile Delinquency section of this digest for the amendments to these W&I sections.]

P.C. 851.93
(New)
(Ch. 578) (AB 1076)
(Effective 1/1/2021)

Beginning January 1, 2021 and subject to an appropriation in the annual Budget Act, the Dep't of Justice (DOJ) is required, on a monthly basis, to review records in the statewide criminal justice databases, and based on information in the state summary criminal history repository, identify persons with records of arrest who are eligible for "arrest record relief." Requires DOJ to grant arrest record relief "if the relevant information is present in the department's electronic records." Relief is granted by DOJ without a court hearing, with no input from the prosecution or a probation department, and without requiring a petition or motion by the arrestee.

[If DOJ's records do not contain the relevant information, arrest record relief should not be granted. For example, if DOJ has no information in its records about whether an arrestee successfully completed a particular diversion program, then relief should not be granted.]

What Happens When Arrest Relief Is Granted

The granting of arrest relief means that the arrest is deemed not to have occurred and that a person granted arrest relief is

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released from all penalties and disabilities resulting from the arrest, subject to a number of exceptions. When arrest relief is granted, DOJ is required to make an entry on the state rap sheet, next to or below the particular arrest, stating “arrest relief granted” and listing the date relief was granted along with the code section (P.C. 851.93).

Arrests to Which New P.C. 851.93 Applies

Provides that arrest record relief applies to arrests that occur on and after January 1, 2021 and that meet any one of these conditions:

1. the arrest was for a misdemeanor and the charge was dismissed; or
2. the arrest was for a misdemeanor, there is no indication that criminal proceedings have been initiated, at least one calendar year has elapsed since the arrest, and no conviction has occurred or the arrestee was acquitted of the charges; or
3. the arrest was for an offense punishable pursuant to P.C. 1170(h)(1) or (2), there is no indication that criminal proceedings have been initiated, at least three calendar years have elapsed since the date of the arrest, and no conviction occurred or the arrestee was acquitted; or
4. the arrestee successfully completed any one of these diversion programs:
 - a. a pre-filing diversion program administered by a prosecuting attorney in lieu of filing an accusatory pleading, as defined in P.C. 851.87; or
 - b. a pre-guilty plea drug court program pursuant to P.C. 1000.5 or a deferred entry of judgment program for drug charges pursuant to P.C. 1000 or 1000.8; or
 - c. a P.C. 1000.4 pre-trial diversion program (note that P.C. 1000.4 is in the same chapter as P.C. 1000.5 and 1000 and therefore is a part of the same drug diversion program); or
 - d. a P.C. 1001.9 diversion program (diversion for misdemeanor offenses); or
 - e. any diversion program described in P.C. 1001.20–1001.34 (diversion for defendants with cognitive developmental disabilities); P.C. 1001.35–1001.36 (diversion for defendants with mental disorders); P.C. 1001.40 (pre-trial diversion for traffic violators); P.C. 1001.50–1001.55 (diversion for misdemeanor offenders); P.C. 1001.60–1001.67 (bad check diversion); P.C. 1001.70–1001.75 (diversion for

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a parent or legal guardian who has committed a violation of P.C. 272 (contributing to the delinquency of a minor); P.C. 1001.80 (military diversion); P.C. 1001.81 (diversion for repeat theft crimes); or P.C. 1001.85–1001.88 (the Law Enforcement Assisted Diversion (LEAD) pilot program).

[Note that the bill uses the phrase “calendar year” but does not define it. By using “one calendar year” and “three calendar years” instead of “one year” and “three years,” the time that is required to elapse before arrest record relief is granted must include one January 1st through December 31st period to satisfy “one calendar year” and three January 1st through December 31st periods to satisfy “three calendar years.” In most cases, this will mean that arrest record relief cannot be granted for more than one year or more than three years. For example, a defendant arrested for a misdemeanor on August 11, 2021 would not be eligible for relief until at least January 1, 2023 because the entire calendar year of 2022 would first have to pass.]

Release from Penalties and Disabilities

Provides that arrest record relief releases the arrestee from penalties and disabilities, but lists a number of exceptions, including that relief does **not** limit the ability of a district attorney to prosecute, within the applicable statute of limitations, an offense for which arrest relief has been granted. Other exceptions regarding release from penalties and disabilities include that arrest relief does not relieve a person of the obligation to disclose the conviction on an application for peace officer employment or public office; relief has no effect on the ability of a criminal justice agency (defined in P.C. 851.92 as including the courts, district attorneys, prosecuting city attorneys, probation officers, parole officers, peace officers, and public defenders) to access and use the records to the same extent that would have been permitted had relief not been granted; relief does not affect the authorization to own, possess, or control a firearm and does not affect the susceptibility to conviction for P.C. 29800–29875 if the arrest would otherwise affect this authorization or susceptibility; and relief does not affect any prohibition on holding public office that would otherwise apply as a result of the arrest.

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Notice to the Court and Court Restrictions on Release of Information

Requires DOJ, on a monthly basis, to electronically submit a notice to the appropriate superior court, informing the court of all cases in which relief has been granted. With some exceptions, prohibits the court, beginning February 1, 2021, from disclosing information about an arrest for which relief has been granted. But permits the court to always disclose information about the arrest to a criminal justice agency or to the arrestee.

Other Avenues of Relief Through the Courts Are Not Prohibited

Provides that these new arrest record relief provisions do not limit petitions, motions, or orders for arrest record relief pursuant to existing P.C. 851.87, 851.90, 851.91, 1000.4, or 1001.9. (All of these sections have to do with the sealing of arrest records.)

DOJ Must Publish Statistics

Requires DOJ to annually publish statistics for each county regarding the total number of arrests granted relief and the percentage of arrests for which the state summary criminal history information does not include a disposition.

[This bill also creates new P.C. 1203.425, which requires DOJ to grant *conviction* record relief. It has language very similar to P.C. 851.93, except that 1203.425 has a procedure for the prosecution or probation department to oppose relief. This bill also amends several sections of the Business & Professions Code, Labor Code, and Vehicle Code to add cross-references to new P.C. 1203.425.]

P.C. 853.6
(Amended)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Extends the sunset date for six months, from January 1, 2021 to July 1, 2021, for the existing version of this section, that, among other things, lists in subdivision (i) the circumstances permitting a peace officer who arrests a person for a misdemeanor to *not* cite and release the person. Thus, the current version of P.C. 853.6(i) will continue, until July 1, 2021, to contain these additions to P.C. 853.6(i), which permit a peace officer to *not* cite and release a misdemeanor arrestee:

1. the person has one or more failures to appear in court on previous misdemeanor citations that have not been resolved; or

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2. the person has been cited, arrested, or convicted for misdemeanor or felony theft from a store or from a vehicle in the previous 6 months; or
3. there is probable cause to believe that the person is guilty of committing organized retail theft in violation of P.C. 490.4.

P.C. 859.7
 (New)
 (Ch. 977) (SB 923)
 (Effective 1/1/2020)
(2018 Legislation)

Creates a statewide standard for eyewitness identification practices by requiring all law enforcement agencies and prosecutorial entities to adopt, by January 1, 2020, regulations for conducting photo lineups and live lineups with eyewitnesses and by specifying the minimum standards for those regulations. Specifically provides that this new section does *not* affect policies for field show up procedures.

Minimum Requirements

The following are the minimum requirements for eyewitness identifications:

1. Eyewitnesses must provide a description of the perpetrator as close in time to the incident as possible, and before any identification (ID) procedure is conducted.
2. The investigator conducting the ID procedure must use “blind administration” or “blinded administration” during the ID procedure.
3. If blind administration is not used, the investigator must state in writing the reason it was not used.
4. Eyewitnesses must be instructed as follows before any ID procedure:
 - a. The perpetrator may or may not be among the persons shown.
 - b. The eyewitness should not feel compelled to make an ID.
 - c. An ID or the failure to make an ID will not end the investigation.
5. The filler people or photos for an ID procedure must generally fit the eyewitness description. In the case of a photo lineup, the photo of the actual suspect should resemble his or her appearance at the time of the offense and “not unduly stand out.”
6. In a photo lineup, information about any previous arrest of the suspected person cannot be visible to the eyewitness.
7. Only one suspected perpetrator can be included in any ID procedure.

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8. All eyewitnesses must be separated when viewing an ID procedure.
9. Nothing shall be said to an eyewitness that might influence an ID by the witness.
10. If the eyewitness makes an ID, all of the following are required:
 - a. The investigator must inquire about the witness' level of confidence in the accuracy of the ID and "record in writing, verbatim, what the eyewitness says."
 - b. Information about the identified person cannot be given to the eyewitnesses before obtaining the witness' statement about his or her confidence level.
 - c. The officer is prohibited from validating or invalidating any ID made.
11. An electronic recording must be made (both audio and video) of an ID procedure, if feasible. If not feasible an audio-only recording may be made and the investigator must state in writing the reason that video recording was not feasible.

Definitions

Provides that "blind administration" means that the administrator of an eyewitness ID procedure does not know the identity of the suspect.

Provides that "blinded administration" means that the administrator of the ID procedure may know who the suspect is, but does not know where the suspect in a live lineup or the suspect's photo in a photo lineup, has been placed or positioned in the ID procedure through the use of:

- a. An automated computer program that prevents the administrator from seeing which photos the eyewitness is viewing until after the ID procedure is completed.
- b. The folder shuffle method for conducting a photo lineup, whereby photos are placed in folders, then randomly numbered, then shuffled, then presented sequentially so that the administrator cannot see or track which photo is being presented to the eyewitness until after the procedure is completed; or
- c. Any other procedure that achieves neutral administration and prevents the lineup administrator from knowing where the suspect, or his or her photo, has been placed or positioned in a live lineup or in a photo lineup.

continued

Defines “eyewitness” as a person whose identification of another person may be relevant in a criminal investigation.

Relevant Evidence Is Still Admissible

Provides that nothing in this new section is “intended to preclude the admissibility of any relevant evidence or to affect the standards governing the admissibility of evidence under the United States Constitution.” Note that there is no authority in this section for a court to suppress an identification based solely on the failure to follow these minimum regulations. And even if the statute contained a suppression mechanism, it would not be effective, because the bill did not receive a 2/3 vote in either the Assembly or the Senate. The Assembly vote was 50 for, 21 against, and 9 not voting. The Senate vote was 21 for, 8 against, and 11 not voting. A two-thirds vote in the Assembly requires 54 votes and a two-thirds vote in the Senate requires 27.

California Constitution Article I, Section 28(f)(2) (“Right to “Truth-in-Evidence,” a part of 1982’s Proposition 8) provides that relevant evidence shall **not** be excluded in any criminal proceeding or in any trial or hearing of a juvenile for a criminal offense, except where two-thirds of the members of both houses of the Legislature enact a statute to provide for exclusion. In *In re Lance W.* (1985) 37 Cal.3d 873, the California Supreme Court interpreted this part of Prop. 8 and held that evidence cannot be excluded based on a violation of California law where it is admissible under federal law.

[Uncodified Section One of this bill sets forth the Legislature’s findings and declarations that eyewitness misidentification is the leading contributor to wrongful convictions and that in California, eyewitness misidentification played a role in 12 out of 13 DNA-based exonerations.]

P.C. 978.5
(Amended)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Extends the sunset date for six months, from January 1, 2021 to July 1, 2021 for the existing version of this section that lists the situations in which a court may issue a bench warrant when a defendant fails to appear in court. Thus, the current version of P.C. 978.5 will continue, until July 1, 2021, to contain this situation that permits the issuance of a bench warrant when a defendant fails to appear in court: the defendant has been cited or arrested for misdemeanor or

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felony theft from a store or vehicle and has failed to appear in court in connection with that charge or those charges in the previous six months.

P.C. 1000.7
(Amended)
(Ch. 129) (AB 1390)
(Effective 1/1/2020)

Expands the deferred entry of judgment pilot program for young adults that six counties are permitted to establish, by providing that a defendant who is 21 years of age or older, and under age 25 on the date the offense was committed may participate in the program with the approval of the multidisciplinary team that is established pursuant to this section. Previously this young adult deferred entry of judgment program applied only to a defendant age 18 or older who was under age 21 on the date of the offense. Now, 21-, 22-, 23-, and 24-year-olds are eligible if a particular county permits their participation. The six counties permitted to establish the pilot program remain the same: Alameda, Butte, Napa, Nevada, Santa Clara, and Ventura. The sunset date also remains the same: January 1, 2022.

P.C. 1001.82
(Amended)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Extends the sunset date for six months, from January 1, 2021 to July 1, 2021, for P.C. 1001.81, which authorizes a county prosecuting attorney, a city prosecuting attorney, or a county probation department to create a diversion **or** deferred entry of judgment program for persons who commit repeat theft offenses.

P.C. 1001.83
(New)
(Ch. 593) (SB 394)
(Effective 1/1/2020)

Creates new Chapter 2.9E in Title 6 of Part 2 of the Penal Code, entitled "Primary Caregiver Diversion."

Authorizes a county to implement a primary caregiver pretrial diversion program, *if* the superior court, the prosecuting entity, and the public defender or contracted criminal defense office, all agree in writing to establish and conduct such a program. The program *cannot* be implemented without the agreement of the district attorney.

Applies to a defendant who is a custodial parent or legal guardian of a minor child under age 18, presently resides in the same household as the child, presently provides care or financial support for the child either alone or with the assistance of other household members, and the defendant's absence in the child's life would be detrimental to the child.

continued

Provides that diversion would be for at least six months but no more than 24 months.

Permits primary caregiver diversion for all crimes except serious felonies (P.C. 1192.7(c) and P.C. 1192.8), violent felonies (P.C. 667.5(c)), and crimes committed against the child for whom the defendant is the caregiver. Therefore, all misdemeanor crimes would be eligible unless the minor child was the victim, including sex crimes, domestic violence, restraining order violations, hate crimes, and drunk driving. Hundreds of felony crimes would also be eligible, such as participation in a criminal street gang (P.C. 186.22(a)), money laundering (P.C. 186.10), false imprisonment (P.C. 236-237), sexual battery (P.C. 243.4), assault by force likely to produce great bodily injury (P.C. 245(a)(4)), domestic violence (P.C. 273.5), elder abuse or elder fraud (P.C. 368), hate crimes (P.C. 422.7), stalking (P.C. 646.9), felon in possession of a firearm (P.C. 29800), major fraud cases where hundreds of thousands or millions of dollars are stolen, vehicle theft (V.C. 10851), drunk driving with injury (V.C. 23153), repeat drunk driving (V.C. 23550), sex crimes that do not technically qualify as serious or violent felonies, etc.

Provides no limits on how many times a defendant could be granted primary caregiver diversion.

Once a primary caregiver diversion program is in place, the court need only “consider” the positions of the defense and prosecution in deciding whether to grant diversion. The court must also be satisfied that the defendant does not pose an unreasonable risk of danger to public safety or to the minor child.

Sets forth procedures for reinstating criminal proceedings when a defendant is performing unsatisfactorily in the diversion program. Because primary caregiver diversion is a *pretrial* diversion program, if a defendant fails diversion, the prosecution would then have to locate witnesses and prosecute what could be a case that is several years old.

Provides that a defendant who completes diversion will have the charges dismissed, the arrest will be deemed never to have occurred, and the court must order access to the arrest record restricted.

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Provides that a court may conclude that a defendant has performed satisfactorily in the diversion program if the defendant has substantially complied with diversion requirements and has avoided significant new violations of law. Therefore, a court can find that a defendant satisfactorily completed diversion even if the defendant did not comply with all diversion requirements and even if the defendant committed new crimes while on diversion.

Provides that a primary caregiver diversion program may include, but not be limited to, all of the following:

1. Parenting classes.
2. Family and individual counseling.
3. Mental health screening, education, and treatment.
4. Family case management 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 assistance.
12. Financial literacy courses.

P.C. 1016.8
(New)
(Ch. 586) (AB 1618)
(Effective 1/1/2020)

Sets forth the Legislature's findings and declarations that a plea bargain that requires a defendant to generally waive unknown future benefits of legislative enactments, initiatives, appellate decisions, or other changes in the law that may occur after the date of the plea is "*not knowing or intelligent.*" Provides that a provision of a plea bargain that requires a defendant to generally 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 "*is void as against public policy.*"

Provides that "plea bargain" has the same meaning as that in P.C. 1192.7(b): "any bargaining, negotiation, or discussion between a criminal defendant, or his or her counsel, and a prosecuting attorney or judge, whereby the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant."

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The first part of new P.C. 1016.8 contains the Legislature's comments about several cases.

1. *Doe v. Harris* (2013) 57 Cal.4th 64: As a general rule, plea agreements are deemed to incorporate the reserve power of the state to amend the law and are not insulated from changes in the law.
2. *Boykin v. Alabama* (1969) 395 U.S. 238: Held that because of the significant constitutional rights at stake in entering a guilty plea, due process requires that a defendant's guilty plea be knowing, intelligent, and voluntary.
3. Waiver is the voluntary, intelligent, and intentional relinquishment of a known right or privilege (*Estelle v. Smith* (1981) 451 U.S. 454, 471, fn.16, quoting *Johnson v. Zerbst* (1938) 304 U.S. 458, 464). Waiver requires knowledge that the right exists (*Taylor v. U.S.* (1973) 414 U.S. 17, 19).

[Note that waiving future benefits is void and not knowing/intelligent only if part of a plea bargain. Therefore, could a defendant who pleads guilty as charged with no promises as to sentencing, offer to enter and actually enter a future benefits waiver in an attempt to persuade the sentencing judge to impose a more lenient sentence than the judge might otherwise impose?]

P.C. 1026
(Amended)
(Ch. 9) (AB 46)
(Effective 1/1/2020)

Makes a technical, non-substantive amendment by replacing "the mentally disordered" with "persons with mental health disorders." [P.C. 1026 pertains to pleas of not guilty by reason of insanity.]

[According to uncodified Section One of this bill, its purpose is to replace "derogatory terms" such as "mental disorder" and "mental defect" with "more culturally sensitive terms."]

P.C. 1054.9
(Amended)
(Ch. 483) (SB 651)
(Effective 1/1/2020)

Makes retroactive a defendant's right to post-conviction discovery in a case where the defendant was convicted at any time of a serious or violent felony and was sentenced to 15 years or more. Thus, the post-conviction discovery provisions of P.C. 1054.9 apply to a case of any age where the defendant was sentenced to 15 years or more for a serious felony (P.C. 1192.7(c)) or a violent felony (P.C. 667.5(c)). When P.C. 1054.9 was amended effective January 1, 2019 to expand post-conviction discovery provisions from death and life

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without the possibility of parole cases only, to cases where a defendant was sentenced to 15 years or more for a serious or violent felony, the amendment specifically provided in then-subdivision (j) that the changes applied prospectively only.

Clarifies that the requirement that a defense attorney retain a copy of a defendant's file for the duration of the defendant's imprisonment applies prospectively, commencing January 1, 2019. (The requirement that defense attorneys retain a copy of the file in all cases where a client is sentenced to 15 years or more for a serious or violent felony became effective January 1, 2019 and did not take into account the fact that files may not have been retained before January 1, 2019 because there was no retention requirement.)

P.C. 1170.05
(Amended)
(Ch. 256) (SB 781)
(Effective 1/1/2020)

Expands this voluntary alternative custody program for female state prison inmates to also apply to male state prison inmates. The program continues to provide for confinement in a residential home, residential drug treatment program, or transitional care facility instead of state prison and it continues to prohibit specified inmates from participating, such as inmates who have a current conviction for a serious felony (P.C. 1192.7(c)) or a violent felony (P.C. 667.5(c)), or who are required to register as a sex offender.

According to the legislative history of this bill, this amendment brings the statute into compliance with the 2015 federal court order in *Sassman v. Brown*, which found that limiting the program to females violated the Fourteenth Amendment to the U.S. Constitution. The amendment also makes the statute consistent with the regulations that CDCR has already adopted pursuant to *Sassman*.

P.C. 1203
(Amended)
(Ch. 44) (AB 597)
(Effective 1/1/2020)

Extends the sunset date, from January 1, 2021 to January 1, 2023, on subdivision (l), which permits a court that is granting probation to take from the defendant a waiver permitting flash incarceration by a probation officer pursuant to P.C. 1203.35. Now flash incarceration waivers may be taken from defendants being placed on probation until January 1, 2023 instead of January 1, 2021. [This bill also amends P.C. 1203.35, pertaining to flash incarceration, to extend that sunset date to January 1, 2023, as well.]

P.C. 1203.076
(Amended)
(Ch. 574) (AB 484)
(Effective 1/1/2020)

Eliminates the requirement that a court find unusual circumstances in order to avoid having to impose a minimum 180-day jail sentence in specified drug cases when a defendant is granted probation, and makes 180 days in jail simply discretionary.

Previously, in H&S 11352 sales cases and in 11379.5 (PCP) cases, a court could avoid imposing a minimum 180-day jail sentence by finding that the case was “unusual” and that the interests of justice would best be served by not requiring 180 days. The court was required to state reasons on the record and enter the reasons into the minutes. Now the interest of justice step is eliminated and a 180-day jail sentence is simply discretionary.

P.C. 1203.2
(Amended)
(Ch. 111) (AB 1421)
(Effective 1/1/2020)

Adds that supervision cannot be revoked *solely* for failing to pay fines, fees, or assessments imposed as a condition of supervision. Previously, this sentence in subdivision (a) provided that supervision shall not be revoked for failing to pay 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. Fines, fees, and assessments were not mentioned. However, P.C. 1214.2(b)(1) already provided that the willful failure to pay a fine that was ordered as a condition of probation is a probation violation. And V.C. 23601(b) already provided that the willful failure to pay a fine, assessment, or restitution is a probation violation. Case law has been clear since at least 1990 that despite no mention of fines in P.C. 1203.2(a), due process required that probation not be revoked for the failure to pay monetary sanctions absent a finding that the defendant had the ability to pay and willfully failed to pay. See *People v. Bethea* (1990) 223 Cal.App.3d 917, 922 (defendant owed a \$200 fine). Thus, the amendment adding fines, fees, and assessments is not really new.

However, the Legislature inserted the word *solely* to modify both the failure to pay restitution and the failure to pay fines/fees/assessments. Therefore, the sentence now appears to provide that supervision could be revoked for failure to pay restitution or fines/fees/assessments **without** a finding of willful failure to pay and ability to pay, as long as the defendant has an additional probation violation circumstance (the commission of a new crime, for example.) According to the legislative history of this bill, the Legislature’s goal was

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to treat revocation for failing to pay fines/fees/assessments the same as failing to pay restitution, requiring that the court find a willful failure to pay and an ability to pay. It is unclear to this writer why the Legislature inserted the word “solely” into this sentence. The sentence *now* reads as follows: “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.” *Before* the amendment, the sentence read like this: “Supervision shall not be revoked 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.”

P.C. 1203.3
(Amended)
(Ch. 573) (AB 433)
(Effective 1/1/2020)

Requires that before probation may be terminated early, a hearing be held in open court. Requires that the prosecutor be given a two-day written notice and an opportunity to be heard. Requires the prosecutor to notify the victim, if the victim has requested to be notified about the progress of the case. Provides that if the victim advises the prosecutor that there is an outstanding restitution order or restitution fine, the prosecutor must request a continuance of the hearing.

According to the legislative history of the bill, the purpose of notice to the prosecutor and victim is so that a judge can be informed if a defendant has not paid restitution in full, if additional restitution needs to be ordered, or, if restitution was never ordered and it should have been. Cases have held that despite the language in P.C. 1202.46 that the court retains jurisdiction over a person for the purposes of imposing or modifying restitution until the loss may be determined and that a sentence may be corrected at any time when it is invalid due to the omission of a restitution order, once probation expires, a restitution order cannot be modified (*Hilton v. Superior Court* (2014) 239 Cal.App.4th 766), or, even if restitution was never ordered, it cannot be ordered after probation expires (*People v. Waters* (2015) 241 Cal.App.4th 822).

Another concern discussed in the legislative history is making sure that victims who have protective orders that are a condition of probation be notified that probation might be terminated early.

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Another benefit of this type of notice is that even if restitution has already been ordered and no additional restitution is requested, the prosecutor can check to see if restitution and the restitution fine have been paid in full. A county department of revenue or a probation department should have this information and many district attorney offices have access to these databases. If a probationer has not paid victim restitution or a restitution fine in full, the prosecutor can object to early termination of probation and can even request that probation be extended to the maximum date. Pursuant to *People v. Cookson* (1991) 54 Cal.3d 1091, the court has the power to extend probation to the maximum date without a finding of violation or an admission of violation, and even if the defendant has paid restitution each and every month as ordered. A probationer not paying restitution in full is reason enough to extend probation.

P.C. 1203.35
(Amended)
(Ch. 44) (AB 597)
(Effective 1/1/2020)

Extends the sunset date, from January 1, 2021 to January 1, 2023, for this section that permits a probation department to impose flash incarceration of up to 10 days in jail on a probation violator or a defendant who violates mandatory supervision, if at the time of granting probation or mandatory supervision, the court obtains a waiver from the defendant in which the defendant waives a court hearing prior to the imposition of any period of flash incarceration.

Note that flash incarceration for defendants on probation or mandatory supervision continues to be different from flash incarceration for parole violators and defendants on postrelease community supervision (PRCS). Waivers are *not* required in order for a supervising agency to impose flash incarceration on a parole violator (P.C. 3000.08) or on a defendant who violates PRCS (P.C. 3454).

P.C. 1203.425
(New)
(Ch. 578) (AB 1076)
(Effective 1/1/2021)

Beginning January 1, 2021, and subject to an appropriation in the annual Budget Act, DOJ is required, on a monthly basis, to review records in the statewide criminal justice databases, and based on information in the state summary criminal history repository and the Supervised Release File, identify persons who are eligible for “automatic conviction record relief.” If found eligible, DOJ then grants relief, including dismissal of the conviction, without a court hearing, with no input from the prosecution or a probation department, and without requiring a petition or motion by the defendant.

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Requires a court, at sentencing, to advise a defendant, orally or in writing, about the provisions of P.C. 1203.425 and “the defendant’s right, if any, to petition for a certificate of rehabilitation and pardon.”

Convictions to Which New P.C. 1203.425 Applies

Automatic conviction relief applies to specified convictions that occur on or after January 1, 2021 where a defendant was granted probation, or where a defendant was convicted of an infraction or misdemeanor and not granted probation. (Thus, defendants sentenced to state prison or sentenced pursuant to P.C. 1170(h), whether or not a period of mandatory supervision was imposed, are *not* eligible for automatic conviction relief.)

Requires that the conviction meet one of these two criteria:

1. the defendant was sentenced to probation and, based on the disposition date and the term of probation specified in DOJ’s records, probation “appears” to have been completed without revocation; or
2. the defendant was convicted of an infraction or misdemeanor, was not granted probation, and, based on the disposition date and term specified in DOJ’s records, the defendant “appears” to have completed the sentence and at least one calendar year has elapsed since the date of judgment.

Sets forth these disqualifiers for automatic conviction relief:

1. the defendant is required to register as a sex offender; or
2. the defendant has an active record for local, state, or federal supervision in the Supervised Release File; or
3. the defendant is currently serving a sentence for any offense or has pending criminal charges; or
4. the conviction resulted in a sentence to state prison.

Number #3, above, is worded in such a way that defendants who are serving sentences or who have pending charges may end up receiving automatic conviction relief when they are not eligible for it because DOJ simply will not have the information it needs to make this determination, unless it contacts all 58 counties. This particular subparagraph makes a defendant eligible for relief if “[b]ased upon the information available in the department’s record, including disposition dates and sentencing terms, it does not appear that the person

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is currently serving a sentence for any offense and there is no indication of any pending criminal charges.” (Emphasis added.)

Number #4, above, cross-references a clause that is not in the final version of the bill. There is no clause (iii) in subparagraph (E) of paragraph (2) of subdivision (a), but the language is clear that a sentence to state prison disqualifies a defendant from relief. This particular subparagraph makes a defendant eligible for relief if “[e]xcept as otherwise provided in clause (iii) of subparagraph (E), there is no indication that the conviction resulted in a sentence of incarceration in the state prison.”

Petition by the Prosecutor to Prohibit Automatic Relief

Subdivision (h) permits a prosecuting attorney or probation department to file a petition to prohibit DOJ from granting automatic relief based on a showing that granting such relief “would pose a substantial threat to public safety.” Requires that such a petition be filed at least 90 calendar days before the date of a defendant’s eligibility for relief. But the ability to be able to file a petition depends on prosecutors having the resources to track and monitor the probation ending dates, and the one-year date after completion of an infraction or misdemeanor sentence, in thousands of cases, and then having the resources to investigate the cases.

If the prosecution files a petition a court hearing must be conducted within 45 days. At a hearing, the defendant, the probation department, the prosecuting attorney, and the arresting agency through the prosecuting attorney, may present evidence. Permits reliable hearsay evidence to be used, by providing that the determination about relief may be based on declarations, affidavits, police reports, criminal history rap sheets, or other evidence that is “material, reliable, and relevant.” Puts the burden on the prosecution to show that granting conviction relief would pose a substantial threat to public safety. (Note that it is not sufficient to simply show the defendant did not comply with all probation conditions, such as a probation condition to pay \$100,000 in victim restitution. A defendant who never paid victim restitution in full could very well obtain P.C. 1203.425 relief whereas he or she would almost certainly be denied P.C. 1203.4 relief because of the failure to fulfill the condition of probation to pay restitution.) Permits the court to consider any relevant factors when deciding whether granting

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conviction relief would pose a substantial threat to public safety, including, but not limited to, declarations or evidence regarding the conviction offense, and the defendant's arrest and conviction record. If the court finds that the prosecution or the probation department has met the burden of proof on the issue of substantial threat to public safety, the burden shifts to the defendant to show that the hardship of not obtaining relief outweighs the threat to public safety of providing such relief. Permits the court to consider any relevant factors on this issue, including declarations and evidence regarding the defendant's good character.

New P.C. 1203.425 does not specify whether the above proof burdens are by a preponderance of the evidence, or by clear and convincing evidence, or beyond a reasonable doubt. Therefore, pursuant to existing Evidence C. 115, the burden of proof is by a preponderance of the evidence.

Even if P.C.1203.425 Relief Is Denied by the Court, a Defendant is Still Eligible for P.C.1203.4 or 1203.4a Relief
Provides that even if relief is denied after a court hearing, the defendant continues to be eligible for relief pursuant to P.C. 1203.4 (cases where probation was granted) or P.C. 1203.4a (misdemeanor cases where probation was not granted, and infraction cases).

What Happens When DOJ Grants Automatic Relief

1. Requires that a note be put on the defendant's state rap sheet next to or below the conviction at issue, stating "relief granted" and listing the date relief was granted along with this section (P.C. 1203.425).
2. Requires DOJ, on a monthly basis, to electronically submit a notice to the appropriate superior court, informing the court of all cases in which relief has been granted.
3. Permits the conviction to be pleaded and proved in any subsequent prosecution, as if relief had not been granted.
4. Beginning February 1, 2021, generally prohibits the court from disclosing information about a conviction for which relief has been granted pursuant to new P.C. 1203.425, or pursuant to existing P.C. 1203.4, 1203.4a, 1203.41, or 1203.42, except for disclosure to the defendant who was granted relief or to a criminal justice agency.
5. Provides that automatic conviction relief pursuant to P.C. 1203.425 releases the defendant from penalties and disabilities, but lists a number of exceptions. For

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example, provides that relief does not relieve a person of the obligation to disclose the conviction on an application for peace officer employment or public office, or when contracting with the state lottery; relief has no effect on the ability of a criminal justice agency (defined in P.C. 851.92 as including the courts, district attorneys, prosecuting city attorneys, probation officers, parole officers, peace officers, and public defenders) to access and use the records to the same extent that would have been permitted had relief not been granted; relief does not limit the jurisdiction of the court over any subsequently filed motion to amend the record, petition or motion for post-conviction relief, or collateral attack; relief does not affect the authorization to own, possess, or control a firearm and does not affect the susceptibility to conviction for P.C. 29800–29875, if the conviction would otherwise affect this authorization or susceptibility; and relief does not affect any prohibition on holding public office that would otherwise apply as a result of the conviction.

Law Enforcement Concerns About This Bill

There a number of concerns about this bill, including the following:

1. Defendants already have the right under existing statutes to petition a court to get criminal records expunged and convictions dismissed. There is no evidence that eligible persons who seek conviction relief have had difficulties obtaining relief pursuant to existing statutes.
2. There is no evidence that DOJ records can provide up-to-the-minute data on conviction relief eligibility criteria, including whether a defendant has pending criminal charges in any of California's 58 counties (or in any other state), or is serving a sentence for any offense. (Some defendants serve sentences on electronic monitoring or on a sheriff's work program. They are not necessarily inside a county jail.)
3. Probation can be granted in serious and violent felony cases, up to and including murder, yet convictions for serious and violent crimes are not disqualified from automatic relief.
4. DOJ records do not show whether a defendant fulfilled the conditions of probation, such as the payment of victim restitution, or whether relief is in the interests of

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justice. In order for a probationer to be granted mandatory P.C.1203.4 relief by a court, the probationer must show that the conditions of probation were fulfilled for the entire period of probation. In order to obtain P.C. 1203.4 discretionary relief, the court must be convinced that such relief is in the interest of justice. There are numerous cases where even though probation was never revoked, the probationer did not fulfill all probation conditions.

5. No notice is provided by DOJ to prosecutors, probation departments, or courts, and nothing requires DOJ to seek input from these entities about whether conviction relief is appropriate, whereas existing conviction relief statutes (P.C. 1203.4, 12034a, 1203.41, 1203.42) require notice and an opportunity to be heard.
6. The 90-day deadline (before probation ends) for the prosecution to notify DOJ that a defendant should not be granted relief is not practical because probation can be revoked up until the last day of the probation term. Without tracking and investigating thousands of cases after conviction, prosecutors will not know whether to notify DOJ. Under the current system, defendants and their attorneys know if conviction relief should be sought and they file a petition with the court, which triggers the prosecutor's and probation department's ability to look into the case to determine whether relief should be granted.
7. Automatic conviction relief by DOJ is very likely unconstitutional because it delegates core judicial functions to the executive branch (DOJ), in violation of Article III, section 3 of the California Constitution, which prohibits one branch of government from exercising powers granted to other branches. A law delegating to the executive branch the power to dismiss a conviction is an infringement upon a core judicial function. See *People v. Romero* (1996) 13 Cal.4th 497, 512: "when the Legislature does permit a charge to be dismissed the ultimate decision whether to dismiss is a judicial, rather than a prosecutorial or executive, function."

[This bill also creates new P.C. 851.93, which requires DOJ to grant *arrest* record relief. It has language very similar to P.C. 1203.425, except there is no procedure for the prosecutor or a law enforcement agency to object to, or oppose, relief. The bill also amends several sections of the Business & Professions Code, Labor Code, and Vehicle Code to add cross-references to new P.C. 1203.425.]

P.C. 1209.5
(Amended)
(Ch. 138) (SB 164)
(Effective 1/1/2020)

Adds that if the court determines that a person convicted of an infraction has shown that payment of the total fine would pose a hardship on the defendant or the defendant's family and the person has chosen to perform community service in lieu of paying the fine, the community service may be performed in the county where the violation occurred, or in the county where the defendant lives, or in any county to which the defendant has substantial ties, including but not limited to, job, family, or education ties. (Previously this section provided simply that the court could order community service, but did not specify where the community service could be performed. Nothing in the pre-2020 version of P.C. 1209.5 prevented the court from permitting a defendant to perform community service in any logical county.)

Provides that regardless of the county in which the person elects to perform community service, the court is required to retain jurisdiction until the community service has been verified as complete.

[This section permits a person convicted of an infraction who shows that payment of the total fine would be a hardship, to perform community service instead of paying the fine. "Total fine" continues to be defined as the total bail, including the base fine, assessments, penalties, and additional moneys. Continues to provide that the hourly rate applicable to community service hours must be at least double the minimum wage paid by an employer who has 25 or fewer employees.]

P.C. 1210.6
(Amended)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Extends the sunset date, from January 1, 2021 to July 1, 2021 for this section that authorizes the Board of State and Community Corrections to award grants to four or more county superior courts or county probation departments to create demonstration projects to reduce the recidivism of high-risk misdemeanor probationers.

P.C. 1320.35
(New)
(Ch. 589) (SB 36)
(Effective 1/1/2020)

Creates new Chapter 1.7 in Title 10 of Part 2 of the Penal Code entitled "Pretrial Risk Assessment Tool Validation."

Requires a pretrial services agency to regularly validate the risk assessment tool it uses and to make specified information about the tool available to the public. Uncodified Section One of the bill provides that its purpose is "to reduce any disparate effect or bias."

Requires that any pretrial risk assessment tool used by a pretrial services agency be validated by January 1, 2021, and thereafter at least once every three years. Requires a pretrial risk assessment tool to be validated using the most recent data collected by the pretrial services agency within its jurisdiction, or, if that data is not available, using the most recent data collected by a pretrial services agency in a similar jurisdiction in California.

Defines "validate" as using scientifically accepted methods to measure both of the following:

1. the accuracy and reliability of the risk assessment tool in assessing the risk the defendant will fail to appear in court and the risk to public safety if the defendant commits a new crime while released; and
2. any disparate effect or bias in the risk assessment tool based on gender, race, or ethnicity.

Defines "release conditions framework" as guidelines used by a pretrial services agency and the court to categorize varying degrees of risk for purposes of recommending whether to release or detain a person, whether to impose pretrial release conditions on a person, and guidance regarding those conditions.

Requires a pretrial services agency, in order to increase transparency, to make specified information publicly available: (1) line items, scoring, and weighting, as well as details on how each line item is scored, for each pretrial risk assessment tool that the agency uses; and (2) validation studies for each pretrial assessment tool that the agency uses.

Requires the Judicial Council to do a number of things:

1. maintain a list of pretrial services agencies that have satisfied the validation and transparency requirements;

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2. by December 31, 2020, publish on its Internet website a report with data related to outcomes and potential biases in pretrial release. Sets forth a detailed list of what is required to be published, which includes information on each county and each superior court; and
3. by July 1, 2022, provide a report to the courts and the Legislature containing recommendations to mitigate bias and disparate effects in pretrial decision making.

Requires pretrial services agencies and courts to provide specified data to the Judicial Council.

P.C. 1328a
P.C. 1328b
P.C. 1328c
 (Repealed)
P.C. 1328d
 (Amended)
 (Ch. 851) (SB 471)
 (Effective 1/1/2020)

Updates P.C. 1328d to add electronic mail and facsimile transmission to the authorized methods (mail or messenger) of serving a subpoena. (Existing P.C. 1328(a) continues to apply to the personal service of a subpoena.)

Repeals three obsolete sections having to do with the service of a subpoena by telegraph or teletype.

[P.C. 1328(c) continues to permit a peace officer to be served through electronic mail or facsimile transmission, or through his or her immediate superior or an agent designated by the immediate superior.]

P.C. 1367
 (Amended)
 (Ch. 9) (AB 46)
 (Effective 1/1/2020)

Makes a number of technical, non-substantive amendments, including replacing “is mentally disordered” with “has a mental health disorder” and replacing “mental disorder” with “mental health disorder.” [P.C. 1367 pertains to the mental incompetence of a defendant.]

[According to uncodified Section One of this bill, its purpose is to replace “derogatory terms” such as “mental disorder” and “mental defect” with “more culturally sensitive terms.”]

P.C. 1369.5
 (New)
 (Ch. 251) (SB 557)
 (Effective 1/1/2020)

Provides that a document submitted to the court pursuant to P.C. 1367–1376 (mental competence of a defendant, Chapter 6 of Title 10 of Part 2 of the Penal Code), is “presumptively confidential, except as otherwise provided by law.”

Requires such documents to be retained in the confidential portion of the court’s file and requires that the prosecution and defense counsel “maintain the documents as

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confidential.” Permits the defendant, defense counsel, and the prosecution to inspect, copy, or utilize the documents, and any information contained in the documents, without an order from the court for purposes related to the defense, prosecution, treatment, and safety of the defendant, and for the safety of the public.

Provides that a motion, application, or petition to access the documents (presumably by a third party since the prosecution and defense are permitted to use the documents without a court order) shall be decided in accordance with existing California Rule of Court 2.551(h), which sets forth the procedures for unsealing a record.

Uncodified Section Two of the bill sets forth the Legislature’s finding that in order to protect the privacy of defendants with respect to personal information contained within expert reports and other documents prepared for mental competency hearings, it is necessary that they be presumptively confidential. The legislative history of the bill contains a statement from the California Judges Association that this bill is necessary because sensitive medical and mental health information is contained in reports prepared by psychiatrists and psychologists that are open to the public because they are contained in a criminal file that is not confidential.

P.C. 1485.55
(Amended)
(Ch. 473) (SB 269)
(Effective 1/1/2020)

Adds vacating of a judgment pursuant to P.C. 1473.7(a)(2) (newly discovered evidence of actual innocence that requires vacation of the conviction or sentence as a matter of law or in the interests of justice) to the list of court actions that permit a person to move for a finding of factual innocence by a preponderance of the evidence that the crime either was not committed or if committed, was not committed by him or her.

Retains the granting of a writ of habeas corpus or vacating a judgment pursuant to P.C. 1473.6 as court actions that permit a person to move for a finding of factual innocence. (P.C. 1473.6 permits a person no longer unlawfully imprisoned or restrained to prosecute a motion to vacate a judgment based on newly discovered evidence of fraud by a government official that completely undermines the prosecution’s case and points unerringly to innocence; or false testimony by a government official that was

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substantially probative on the issue of guilt or punishment; or misconduct by a government official that resulted in fabrication of evidence that was substantially material and probative on the issue of guilt or punishment.)

P.C. 1524
(Amended)
(Ch. 196) (AB 1638)
(Effective 1/1/2020)

Expands the list of crimes for which a search warrant may issue by adding a new paragraph 19 to subdivision (a): when the property or things to be seized are data, from a recording device installed by the manufacturer of a motor vehicle, that constitutes evidence that tends to show the commission of a felony or misdemeanor offense involving a motor vehicle, resulting in death or serious bodily injury to any person.

Provides that the data accessed by a warrant shall not exceed the scope of the data that is directly related to the offense for which the warrant is issued.

Provides that “recording device” has the same meaning as in V.C. 9951. V.C. 9951(b) provides that “recording device” means a device that is installed by the manufacturer of a vehicle and does one or more of the following, for the purpose of retrieving data after an accident:

1. Records how fast and in which direction the motor vehicle is traveling.
2. Records a history of where the motor vehicle travels.
3. Records steering performance.
4. Records brake performance, including whether brakes were applied before an accident.
5. Records the driver’s seatbelt status.
6. Has the ability to transmit information concerning an accident in which the motor vehicle has been involved to a central communications system when an accident occurs.

V.C. 9951(c) provides that recording device data may be retrieved by the registered owner of the vehicle or with the consent of the registered owner, in response to a court order, for the purpose of improving motor vehicle safety and the identity of the driver or owner is not disclosed, or by a motor vehicle dealer or automotive technician for the purpose of diagnosing or repairing the vehicle.

Provides that serious bodily injury has the same meaning as in P.C. 243(f).

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P.C. 243(f)(4) defines “serious bodily injury” as a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

[Event data recorder information could already be obtained pursuant to a search warrant if the information tended to show a felony had been committed, pursuant to existing P.C. 1524(a)(4). New P.C. 1524(a)(19) expands the ability to obtain a search warrant to misdemeanor cases where death or serious bodily injury occurs.]

P.C. 1550
(Repealed)
(Ch. 204) (SB 192)
(Effective 1/1/2020)

Repeals this *posse comitatus* provision, which had provided that every peace officer or other person empowered to make an arrest had the authority to command assistance in the making of the arrest as provided in P.C. 150, and that the failure or refusal to help is a violation of P.C. 150.

This bill also repeals P.C. 150, which required every able-bodied person age 18 or older to aid a peace officer or judge upon request, in making an arrest, re-taking an escaped person into custody, or preventing a breach of the peace. A violation of P.C. 150 was punishable by a fine of between \$50 and \$1,000. It was originally enacted in 1872 and was last amended in 1998.

[According to the legislative history of this bill, the California Posse Comitatus Act of 1872 was created during a time when peace officers had limited resources and is “a vestige of a bygone era.” The California State Sheriffs Association opposed the bill, pointing out that the proponents of repeal could not cite any problems with the law other than that it was enacted many years ago.]

P.C. 2936
(New)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Requires CDCR to submit a report to the Legislature and to the Legislative Analyst’s Office whenever CDCR proposes regulatory changes that affect the credits a state prison inmate may earn pursuant to Section 32 of Article I of the California Constitution (Proposition 57, November 2016).

<p>P.C. 2960 P.C. 2966 P.C. 2968 P.C. 2970 P.C. 2972 P.C. 2974 P.C. 2978 (Amended) (Ch. 9) (AB 46) (Effective 1/1/2020)</p>	<p>Makes a number of technical, non-substantive amendments, including replacing “mental disorder” with “mental health disorder” and replacing “mental retardation” with “intellectual disability.” [These Penal Code sections pertain to mentally disordered offenders.]</p> <p>[According to uncodified Section One of this bill, its purpose is to replace “derogatory terms” such as “mental disorder” and “mental defect” with “more culturally sensitive terms.”]</p>
<p>P.C. 2962 (Amended) (Ch. 649) (SB 591) (Effective 1/1/2020)</p>	<p>Adds a new subparagraph to require that a psychiatrist or psychologist from the State Dep’t of State Hospitals, CDCR, or the Board of Parole Hearings must be afforded “prompt and unimpeded access” to a state prisoner and the prisoner’s records when he or she is temporarily housed at a county correctional facility, a county medical facility, or a state-assigned mental health provider, for the purpose of conducting a mentally disordered offender (MDO) evaluation. Requires that the psychiatrist or psychologist submit current and valid proof of state employment and a department letter or memorandum arranging the appointment. (Therefore, if a state prison inmate is in a county jail to resolve a pending case in that county, a state psychiatrist or psychologist has the authority to do the MDO evaluation there.)</p> <p>Also makes some non-substantive language amendments by changing “mental disorder” to “mental health disorder” and “mental retardation” to “intellectual disability.”</p>
<p>P.C. 3003 (Amended) (Ch. 497) (AB 991) (Effective 1/1/2020)</p>	<p>Makes a technical, non-substantive amendment by adding P.C. 287 to the list of sexual assault crimes for which a victim or witness may request that a defendant be paroled to a location 35 or more miles away from the victim or witness. As of January 1, 2019, P.C. 288a oral copulation was renumbered to new P.C. 287 without substantive change. P.C. 3003 now cross-references both former P.C. 288a and new P.C. 287.</p>

P.C. 3007.05
(Amended)
(Ch. 435) (AB 701)
(Effective 1/1/2020)

Requires that an exonerated person be paid \$5,000 upon release to be used for housing costs. Also requires that an exonerated person receive direct payment or reimbursement for reasonable housing costs for a period of up to four years following release from custody. Provides that CDCR shall disburse payments from funds to be made available upon appropriation by the Legislature. Defines reasonable housing costs in terms of hotels costs, rent, and mortgage expenses. Defines reasonable hotel costs as not exceeding 25 percent above the federal General Services Administration's per diem lodging reimbursement rate; reasonable rent costs as not exceeding 25 percent above the fair market value as defined by the United States Dep't of Housing and Urban Development; and reasonable mortgage expenses as not exceeding 25 percent above the Federal Housing Administration's area loan limits.

This section continues to provide that an exonerated person is entitled to be paid \$1,000 upon release from state prison. The \$5,000 housing payment and four years of housing expenses are in addition to the existing \$1,000 payment.

Continues to define "exonerated person" as a person whose conviction was reversed on appeal for insufficient evidence, or who was pardoned by the Governor on the basis of innocence, or for whom a writ of habeas corpus was granted on the basis that evidence unerringly points to innocence, or for whom a writ of habeas corpus was granted pursuant to P.C. 1473 (false evidence or new evidence.)

[Existing P.C. 4900-4906 continue to provide that a person who is convicted of a felony and later determined to be innocent may file a claim with the California Victim Compensation Board to receive \$140 per day of incarceration.]

P.C. 3051
(Amended)
(Ch. 577) (AB 965)
(Effective 1/1/2020)

Makes youth offenders potentially eligible for parole at an earlier date by granting authority to CDCR to use its discretion "to determine what, if any, credit earning programs shall apply to an incarcerated person, including any and all credits to advance a youth parole eligible date." See new subdivision (j), below.

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Adds that the parole eligible date for a person eligible for youth offender parole is the *first day* of the person's 15th year of incarceration, the *first day* of the 20th year of incarceration, or the *first day* of the 25th year of incarceration. P.C. 3051 continues to provide that an offender who commits his or her crimes at age 25 or younger and receives a determinate sentence is eligible for parole during the 15th year of incarceration; an offender sentenced to a life term of fewer than 25 years to life is eligible for parole during the 20th year of incarceration; and an offender sentenced to a life term of 25 years to life is eligible for parole during the 25th year of incarceration. P.C. 3051 also continues to provide that an offender who commits his or her crimes while under age 18 and receives a sentence of life without the possibility of parole (LWOP) is eligible for parole during the 25th year of incarceration. P.C. 3051 continues to provide that defendants sentenced pursuant to the strike law (P.C. 667(b)–(i); P.C. 1170.12), or pursuant to the one strike sex offender law (P.C. 667.61), or who receive an LWOP sentence for a crime committed at age 18 or older, are *not* eligible for youth offender parole.

Adds that an offender is entitled to an initial youth offender parole hearing within six months of his or her youth parole eligible date, unless entitled to an earlier parole consideration hearing pursuant to another law.

Adds a new subdivision (j) permitting, but not requiring, CDCR to adopt regulations pursuant to Section 32(b) of Article One of the California Constitution in order to authorize youth offenders serving determinate or life terms, but *not* life without the possibility of parole, to obtain an earlier youth parole eligible date. Section 32(b) was a part of Proposition 57 (November 2016) and authorized CDCR to adopt regulations for early parole for non-violent offenders, and for additional credits for state prison inmates. Pursuant to Proposition 57, CDCR created an increased conduct credit scheme that applies to all state prison inmates except those sentenced to death or LWOP, increased the credits available for milestone completion, and created two new forms of credit called rehabilitative achievement and educational merit. Uncodified Section One of this bill contains the Legislature's declaration that the purpose of the bill is for youthful offenders to be paroled even earlier than they are now, through the earning of additional conduct credits: "The purpose of this act is to incentivize rehabilitation by

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allowing people to advance their youth parole eligible date through earning credits, starting with educational merit credits, at the discretion of the Secretary of the Department of Rehabilitation. The Legislature recognizes that it is within the full discretion of the CDCR Secretary to determine what, if any, credit earning programs shall apply to an incarcerated person, including any and all credits to advance a youth parole eligible date.”

[*Note:* In the original version of the bill, subdivision (j) mandated that credits reduce the 15-, 20-, and 25-year minimum terms required to be served before parole eligibility under P.C. 3051. This was opposed by law enforcement and victim rights groups because of the increased disproportionality between the gravity and number of an inmate’s crimes, and eligibility for parole, that additional credits would cause. P.C. 3051 already bases eligibility for parole on an inmate’s controlling offense (the longest term of imprisonment for an offense or enhancement) and not on the inmate’s overall sentence which might include multiple convictions for which consecutive sentences were imposed. Thus, P.C. 3051’s parole provisions already make inmates eligible for parole years, even decades, sooner than they otherwise would be. An inmate serving 75 years to life for three consecutive first-degree murders is eligible for youth offender parole at the same time as an inmate serving 25 years to life for one first-degree murder: in the 25th year of incarceration. Applying conduct credits to the 25-year mark would permit parole much earlier and further reduce proportionality in sentencing between inmates who commit one crime and inmates who commit multiple crimes. Defendants serving a sentence for any violent felony, including murder, earn 20% conduct credits after CDCR adopted a new credit scheme pursuant to Proposition 57. And additional credit may be earned for milestone completion, rehabilitative achievement, and educational merit. If these credits are granted to youth offenders, this would mean that a multiple first-degree murderer could be eligible for parole at the 20-year mark based on conduct credits alone, and even earlier than 20 years if the inmate earns other types of credit.]

P.C. 3053.9
(New)
(Ch. 242) (SB 141)
(Effective 1/1/2020)

Provides that if an inmate has a prior conviction for a sexually violent offense as defined in W&I 6600(b), the Board of Parole Hearings shall consider the results of a comprehensive risk assessment for sex offenders when it considers whether the inmate should be paroled.

This amendment requires that an inmate serving a life sentence who has a prior conviction for a sexually violent offense be assessed for the likelihood of committing a sex offense, just as determinately-sentenced inmates are already being assessed. These sex offender risk assessments had previously been done only for inmates sentenced to a determinate term.

P.C. 4001.2
(New)
(Ch. 281) (AB 2568)
(Effective 1/1/2020)
(2018 Legislation)

Requires a county jail, upon detaining a person, to ask if he or she has served in the U.S. military, and requires the response to be documented. Requires a county jail to make this information available to the detained person, his or her attorney, and the district attorney.

The purpose of this bill is to help veterans take advantage of resources and programs for veterans within the criminal justice system, such as veteran treatment courts, military diversion (e.g., P.C. 1001.80), and P.C. 1170.9 (alternate commitment for veterans).

P.C. 4011.2
(Amended)
P.C. 4011.3
(New)
(Ch. 570) (AB 45)
(Effective 1/1/2020)

Repeals the version of P.C. 4011.2 that had permitted a sheriff, director of corrections, or chief of police to charge a \$3 fee to an inmate for an inmate-initiated medical visit in a county or city jail. The fee was charged to an inmate's personal account if the inmate had fees in his or her account, and the statute specifically prohibited denying medical care because of a lack of funds. The new version of P.C. 4011.2 prohibits the charging of any fee for an inmate-initiated medical visit in a county or city jail.

New P.C. 4011.3 prohibits a sheriff, director of corrections, or chief of police from charging any fee for durable medical equipment or medical supplies that are prescribed by a licensed provider to meet the medical needs of an inmate in a county or city jail. Examples of durable medical equipment include eyeglasses, dentures, artificial limbs, orthopedic shoes, and hearing aids.

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[According to the legislative history of the bill, the California State Sheriffs Association pointed out that no fee is charged if an inmate does not have any funds in his or her account, no inmate is denied medical care for lack of funds, and the small fee was a useful tool in discouraging inmates from seeking frivolous medical visits.]

P.C. 4011.6
(Amended)
(Ch. 9) (AB 46)
(Effective 1/1/2020)

Makes a number of technical, non-substantive amendments, including replacing “mentally disordered” with “mental health disorder.” [This section permits a person in a county jail or juvenile detention facility who has a mental disorder to be taken to a facility for 72-hour treatment and evaluation pursuant to W&I 5150.]

[According to uncodified Section One of this bill, its purpose is to replace “derogatory terms” such as “mental disorder” and “mental defect” with “more culturally sensitive terms.”]

P.C. 4019
(Amended)
(Ch. 44) (AB 597)
(Effective 1/1/2020)

Extends the sunset date, from January 1, 2021 to January 1, 2023, on the version of P.C. 4019 (conduct credits) that contains subdivision (i)(2), which provides that credits earned for a period of flash incarceration imposed pursuant to P.C.1203.35 (i.e., imposed on a probation violator or on a defendant who violates mandatory supervision) shall count towards any violation term imposed if probation or mandatory supervision are later revoked. Subdivision (i)(1) continues to provide that no P.C. 4019 conduct credits may be earned for a period of flash incarceration imposed on a parole violator (P.C. 3000.08) or on a defendant who violates postrelease community supervision (P.C. 3454).

P.C. 4901
P.C. 4903
(Amended)
(Ch. 473) (SB 269)
(Effective 1/1/2020)

Amends P.C. 4901 to extend, from two years to 10 years, the time that a wrongfully convicted person has to file a claim for compensation with the California Victim Compensation Board (CalVCB). Adds “dismissal of charges” to the list of actions (judgment of acquittal, pardon granted, or release from custody) that trigger the 10-year period, and provides that the 10 years starts running from whichever one of these actions occurs later.

Amends P.C. 4903 to add that except where a court has declared a person factually innocent, the CalVCB must set a time and place for hearing a compensation claim. (Pursuant

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to existing language in P.C. 851.865 and 1485.55, if a person has obtained a declaration of factual innocence from a court, that finding is sufficient grounds for the payment of a claim for compensation. CalVCB is required, without a hearing, to recommend to the Legislature that the claim be paid. Existing P.C. 4904 provides for a compensation rate of \$140 per day of incarceration.)

P.C. 5003.1
(New)
(Ch. 739) (AB 32)
(Effective 1/1/2020)

Beginning January 1, 2020, prohibits CDCR from entering into a new contract with a private, for-profit prison facility located in or outside California to provide housing for state prison inmates.

Also prohibits CDCR from renewing an existing contract for any such facility, except if the facility is needed to comply with the requirements of any court-ordered population cap. Therefore, a contract already in existence on January 1, 2020 may continue, but may not be later renewed or extended unless the private facility is needed to house state prison inmates because California's state prisons exceed a court-ordered inmate population cap.

Completely eliminates the use of private, for-profit prisons by providing that after January 1, 2028, no state prison inmate "or person under the jurisdiction of the department" may be incarcerated in a private, for-profit prison facility.

[Note that existing P.C. 2915, which permits the CDCR Secretary to enter an agreement with a private entity to obtain secure housing capacity inside or outside of California, has a sunset date of January 1, 2020.]

[This bill also creates new P.C. 9500–9505 pertaining to privately owned and operated detention facilities. See below.]

P.C. 5007.3
(New)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Requires CDCR to establish the California Reentry and Enrichment Grant program (CARE) to provide grants to community-based organizations that provide rehabilitative services to incarcerated persons.

Provides that grants shall be awarded to fund programs that provide "insight-oriented restorative justice and offender accountability programs" that can demonstrate the

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approach has produced, or will produce, positive outcomes in department facilities, including increasing empathy and mindfulness; increasing resilience and reducing the impacts of stress and trauma; reducing violence in the form of physical aggression, verbal aggression, anger, and hostility; successfully addressing and treating symptoms of post-traumatic stress disorder; and victim impacts and understanding.

P.C. 5007.5
(Amended)
P.C. 5007.9
(New)
(Ch. 570) (AB 45)
(Effective 1/1/2020)

Repeals the version of P.C. 5007.5 that had permitted the charging of a \$5 fee to a state prison inmate for an inmate-initiated medical visit. The fee was charged to an inmate's prison account if the inmate had fees in his or her account, and the statute specifically prohibited denying medical care because of a lack of funds. The new version of P.C. 5007.5 prohibits the charging of any fee for an inmate-initiated medical visit in state prison.

New P.C. 5007.9 prohibits the charging of any fee for durable medical equipment or medical supplies that are prescribed by a licensed provider to meet the medical needs of a state prison inmate. Examples of durable medical equipment include eyeglasses, dentures, artificial limbs, orthopedic shoes, and hearing aids.

P.C. 5075
(Amended)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Increases, from 15 to 17, the number of commissioners for the Board of Parole Hearings.

P.C. 6126
P.C. 6126.2
P.C. 6126.3
P.C. 6126.5
P.C. 6133
(Amended)
(Ch. 364) (SB 112)
(Effective 9/27/2019)

Authorizes the Inspector General to initiate an audit or review of the policies, practices, and procedures of CDCR. Permits the Inspector General, after the completion of an audit or review, to perform a follow up audit or review to determine what measures CDCR implemented to address the Inspector General's findings and to assess the effectiveness of those measures.

Requires the Inspector General to provide contemporaneous oversight of grievances that fall within CDCR's process for reviewing and investigating inmate allegations of staff misconduct and other specialty grievances, examining compliance with regulations, department policy, and best

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practices. Requires the Inspector General to issue an annual report starting in 2021.

Requires the Inspector General to monitor CDCR's process for reviewing use of force and to issue an annual report.

P.C. 9500
P.C. 9501
P.C. 9502
P.C. 9503
P.C. 9505
(New)
(Ch. 739) (AB 32)
(Effective 1/1/2020)

Creates new Title 9.5 in Part 3 of the Penal Code, entitled "Privately Owned and Operated Detention Facilities."

Generally prohibits any person from operating a private detention facility in California. Sets forth a number of exceptions, such as a private detention facility operating pursuant to a valid contract with a governmental entity that was in effect before January 1, 2020; a privately owned facility that is leased and operated by CDCR or a law enforcement agency; a facility used for the quarantine of persons for public health reasons; a facility used for the temporary detention of a person detained or arrested by a merchant; a school facility used for the disciplinary detention of a pupil; a specified residential care facility; a facility providing educational or vocational services to a state or local inmate; a facility providing rehabilitation and treatment to a juvenile that is under the jurisdiction of the juvenile court; or a facility providing evaluation and treatment pursuant to specified code sections relating to mental health.

Defines "detention facility" as a facility in which persons are incarcerated or involuntarily confined for purposes of serving a sentence or for detention pending trial, a hearing, a judicial proceeding, or an administrative proceeding. [According to the legislative history, a private detention facility for a detained immigrant pending a deportation hearing would be prohibited.]

[This bill also creates new P.C. 5003.1, which prohibits CDCR from entering into a new contract or from renewing an existing contract with a private, for-profit prison facility to house state prison inmates. See P.C. 5003.1 above.]

P.C. 11105
(Amended)
(Ch. 578) (AB 1076)
(Effective 1/1/2020)

Amends subdivision (p) to prohibit DOJ from furnishing information about convictions for which relief was granted pursuant to P.C. 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 to a non-criminal justice agency or other specified organization that needs the information for employment, licensing, or certification purposes. Previously, this subdivision listed only P.C.1203.49 (relief for convictions of P.C. 647(b) (prostitution) that are the result of human trafficking). Now the other conviction relief sections are added.

[This bill creates new P.C. 851.93 and new 1203.425 to require DOJ, beginning January 1, 2021, to grant automatic arrest record relief (P.C. 851.93) and automatic conviction record relief (P.C. 1203.425). See above for detailed information about these two new sections.]

P.C. 11105.9
(New)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Permits CDCR to provide the social security numbers of current or former inmates to the Employment Development Department (EDD) and to the California Workforce Development Board (the Board) in order to track the labor market and employment outcomes of former state prison inmates.

P.C. 11165.7
(Amended)
(Ch. 674) (AB 189)
(Effective 1/1/2020)

Expands the list of mandated reporters under the Child Abuse and Neglect Reporting Act (which requires reports about physical abuse and sexual abuse), by adding a 47th entry: a qualified autism service provider, a qualified autism service professional, or a qualified autism service paraprofessional.

P.C. 11166
(Amended)
(Ch. 27) (SB 80)
(Effective 6/27/2019)

Makes technical, non-substantive amendments to this section by replacing "he or she" with the phrase "the mandated reporter," and by replacing "his or her" with "the person's" or "the clergy member's" or "the employee's" or "the technician's." [P.C. 11166 contains detailed provisions about mandated child abuse reporters and reporting responsibilities.]

P.C. 11172
(Amended)
(Ch. 777) (AB 819)
(Effective 1/1/2020)

Adds new subdivision (d) to provide that any person who in good faith provides information or assistance, including medical evaluations or consultations, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect, shall not incur civil or criminal liability as a result of providing that information or assistance. Provides that this new subdivision does not grant immunity from liability for a person who is suspected of committing the abuse or neglect.

Existing subdivision (a) already provides immunity from civil and criminal liability for mandated child abuse reporters for any report required or authorized pursuant to the Child Abuse and Neglect Reporting Act (P.C. 11164–11174.3). New subdivision (d) extends immunity from civil and criminal liability to a person who in good faith provides assistance or information in connect with a child abuse report.

P.C. 12022.8
(Amended)
(Ch. 646) (SB 459)
(Effective 1/1/2020)

Expands this five-year enhancement for inflicting great bodily injury on a victim during the commission of a specified sex offense by adding P.C. 262(a)(2) (spousal rape where the victim is prevented from resisting by an intoxicating or anesthetic substance, or by a controlled substance) and attempted P.C. 262(a)(2).

The crimes already listed in P.C. 12022.8 are P.C. 220 involving a sex offense, and violations or attempted violations of P.C. 261(a)(2), 261(a)(3), 261(a)(6), 262(a)(1), 262(a)(4), 264.1, 288(b), 289(a), and sodomy or oral copulation by force in violation of P.C. 286, 287, or former 288a.

[This amendment makes the specified P.C. 262 crimes consistent with the already-specified P.C. 261 crimes. Already listed was P.C. 261(a)(3) (rape of an intoxicated victim). The addition of P.C. 262(a)(2) means that the three types of P.C. 261 and 262 rape specified in P.C. 12022.8 are the same: forcible rape, rape of an intoxicated victim, and rape by threatening to retaliate.]

P.C. 13012.7
(New)
(Ch. 245) (SB 259)
(Effective 1/1/2020)

Requires the annual crime report prepared by DOJ to include statistics for lewd and lascivious felonies, consistent with the statistics that are reported for rape, including the number of offenses reported and the rate per 100,000 population.

Provides that “lewd or lascivious felonies” means P.C. 220(a)(1) (assault with intent to commit a specified sex offense or mayhem), P.C. 220(a)(2) (assault on a person under age 18 with the intent to commit a specified sex offense), P.C. 220(b) (assault with the intent to commit a sex offense during a burglary), P.C. 266j (procuring a child under age 16 for a lewd act), P.C. 288(a) (lewd act on a child under age 14), P.C. 288(b)(1) (forcible lewd act on a child under age 14), P.C. 288(b)(2) (forcible lewd act by a caretaker on a dependent person), P.C. 288(c)(1) (lewd act on a child age 14 or 15 where the defendant is at least 10 years older), P.C. 288(c)(2) (non-forcible lewd act by a caretaker on a dependent person), and P.C. 288.5(a) (continuous sexual abuse of a child under age 14). Requires these new statistics to be included in the DOJ report that includes data from 2022.

[The legislative history of the bill states that its purpose is to give sex crimes against children the same scrutiny as is currently given to rape, robbery, and vehicle theft in the annual report.]

P.C. 13150
P.C. 13151
P.C. 13202
(Amended)
(Ch. 581) (AB 1331)
(Effective 7/1/2020)

Amends P.C. 13150, beginning July 1, 2020, to add the CII number and the incident report number to the types of information that an arresting agency is required to report to DOJ. (CII = Criminal Investigation & Identification number; a person’s state rap sheet number.)

Amends P.C. 13151, beginning July 1, 2020, to add the CII number and the court docket number to the types of information that a court is required to furnish to DOJ. Requires a criminal justice agency that files a case with the court to include the defendant’s CII number in the filing.

Amends P.C. 13202, beginning July 1, 2020, to add criminal court records to the types of information that a public agency or research body may be provided for research or statistical purposes. (Continues to provide that information identifying an individual cannot be transferred, revealed, or used for purposes other than research or statistical activities.) Adds

continued

that a person shall not be denied information pursuant to this section solely on the basis of the person's criminal record unless he or she has been convicted of a felony or another offense involving moral turpitude, dishonesty, or fraud.

[According to the legislative history of this bill, the goal is to improve the accuracy of criminal justice data.]

P.C. 13350

P.C. 13351

P.C. 13352

(New)

(Ch. 650) (SB 620)

(Effective 1/1/2020)

Creates new Article 8 in Chapter 2 of Title 3 of Part 4 of the Penal Code entitled "Referral of Persons on Supervised Release."

Permits a municipal police department or county sheriff's department to provide the name and address of a person on parole, postrelease community supervision (PRCS), mandatory supervision, or supervised probation who is residing in the agency's jurisdiction, to service providers located in that jurisdiction (i.e., a government or non-profit organization that provides help with housing, job training, counseling, or mentoring.) Requires that the supervised person first consent to release of his or her name and address to service providers.

Requires a person on supervised release to be notified that he or she may consent to the release of his or her name or address to service providers, but does not provide who or what entity is to provide this notice.

Requires a law enforcement agency, before releasing information to a service provider about a person under the jurisdiction of a probation department (i.e., persons on probation, PRCS, or mandatory supervision), to coordinate with the supervisee's probation officer to determine whether the supervisee has authorized information to be released. If the law enforcement agency releases information to a service provider it must inform the probation officer about the release of information.

Requires a law enforcement agency, before releasing information to a service provider about a parolee, to access the appropriate automated system designated by CDCR. (The automated system would presumably contain the information about whether the parolee consents to the release of information to service providers.)

continued

These new sections have a delayed operative date for parolees. They do not apply to parolees (persons under the jurisdiction of CDCR) until July 1, 2021 (most likely so that CDCR has time to automate the information about whether a parolee consents to release of information to service providers).

[The legislative history of the bill highlights a program operated by the City of Pasadena that involves a collaboration of a number of community groups, including the Pasadena Police Department, to provide a safety net of support services for formerly incarcerated people.]

P.C. 13500
(Amended)
(Ch. 594) (SB 399)
(Effective 1/1/2020)

Adds two members to the Commission on Peace Officer Standards & Training. Requires the President pro Tempore of the Senate and the Speaker of the Assembly to each appoint one person who is not a peace officer and who has demonstrated expertise in one or more of the following areas: implicit and explicit bias; cultural competency; mental health and policing; or vulnerable populations such as children, the elderly, pregnant women, and the disabled.

P.C. 13503.5
(New)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Requires the Commission on Peace Officer Standards and Training (POST), beginning February 1, 2020, to submit an annual report to the Legislature on the effectiveness of any additional funding appropriated by the Legislature on or after July 1, 2019, in improving peace officer training.

P.C. 13510.05
P.C. 13510.06
(New)
(Ch. 172) (AB 332)
(Effective 1/1/2020)

New P.C. 13510.06 prohibits releasing to the public test results relating to a person's participation in the basic course of peace officer training, unless those test results are subject to disclosure pursuant to existing P.C. 832.7, which governs the release of information contained in peace officer personnel records.

New P.C. 13510.05 requires the Commission on Peace Officer Standards and Training (POST) to submit a report to the Legislature and the Governor by April 1, 2021 that includes data such as the number of students who attended a police academy, the number and percentage of students who successfully completed the academy, the number and percentage of students who quit, the number and percentage of students who did not complete the academy because

continued

they failed one or more learning domains, the number and percentage of students who failed to complete the learning domains related to vehicle operations and firearms proficiency, and the number of students who received remedial training. Requires the report to discuss whether POST finds that it should establish minimum standards for an appropriate level of remedial training, particularly with regard to the vehicle operations and firearms proficiency learning domains.

[According to the legislative history of this bill, the learning domains that have the highest failure rates in police academies are vehicle operations and firearms proficiency. And, there is a concern that the trainees that fail out of police academies are mostly women or minorities, or both. Police academies have various standards for remedial training and the goal is to standardize remedial training so that all police cadets have a reasonable opportunity to improve skills and pass academy tests.]

P.C. 13519
(Amended)
(Ch. 546) (SB 273)
(Effective 1/1/2020)

The Phoenix Act.

Revises the course of instruction for law enforcement in the handling of domestic violence crimes and the guidelines that the Commission on Peace Officer Standards and Training (POST) is already tasked with developing for law enforcement's response to domestic violence.

Requires the domestic violence training course to include a brief current and historical context on communities of color impacted by incarceration and violence. Authorizes the training to include victims of domestic violence and perpetrators of domestic violence.

Adds the following to the list of items officers must receive instruction on: criminal conduct that may be related to domestic violence, such as coercion, false imprisonment, extortion, identity theft, stalking, and non-consensual pornography.

Expands the list of techniques for handling domestic violence to include: (1) methods for ensuring victim interviews occur in a venue separate from the alleged perpetrator and with appropriate sound barriers to prevent the conversation from being overheard; and (2) questions

continued

for the victim, including whether the victim would like a follow up visit to provide needed support or resources, and information on obtaining a gun violence restraining order and a protective order; and (3) a verbal review of the resources available for victims outlined on the written notice provided pursuant to existing P.C. 13701(c)(9).

[This bill also creates new P.C. 803.7, which extends the statute of limitations for prosecuting felony and misdemeanor violations of P.C. 273.5 domestic violence crimes to five years. See P.C. 803.7, above.]

P.C. 13519.10
(New)
(Ch. 285) (SB 230)
(Effective 1/1/2020)

Requires the Commission on Peace Officer Standards and Training (POST) to implement a course for the regular and periodic training of law enforcement officers in the use of force, and to develop minimum use of force guidelines for adoption by California law enforcement agencies.

Requires the course to include 14 items, including legal standards for use of force; duty to intercede; the reasonable force doctrine; supervisory responsibilities; guidelines for the use of deadly force; de-escalation and interpersonal communication training, including tactical methods that use time, distance, cover, and concealment to avoid escalating situations that lead to violence; implicit and explicit bias and cultural competency; alternatives to the use of deadly force and physical force; and mental health and policing, including bias and stigma.

Uncodified Section One of this bill sets forth a number of findings and declarations by the Legislature including these:

1. "The highest priority of California law enforcement is safeguarding the life, dignity, and liberty of all persons, without prejudice to anyone."
2. "Law enforcement officers shall be guided by the principle of reverence for human life in all investigative, enforcement, and other contacts between officers and members of the public."
3. "A law enforcement agency's use of force policies and training may be introduced as evidence in proceedings involving an officer's use of force. The policies and training may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably, but shall not be considered as imposing

continued

a legal duty on the officer to act in accordance with such policies and training.”

[This bill also creates new Gov’t C. 7286 which requires every law enforcement agency to maintain a policy that provides a minimum standard on the use of force and to make the policy accessible to the public. See the Government Code section of this digest for more information about what this policy is required to include.]

[See also the amendments to P.C. 196 and 835a (AB 392) in the Penal Code section of this digest, about the legal standards for law enforcement use of deadly force.]

P.C. 13520
P.C. 13526
P.C. 13526.1
P.C. 13526.2
P.C. 13526.3
(Amended)
(Ch. 25) (SB 94)
(Effective 6/17/2019)

As of January 1, 2020, abolishes the Peace Officer’s Training Fund, which is in the State Treasury, and transfers any remaining money to the State Penalty Fund, which is designated as the successor fund to the Peace Officer’s Training Fund. [According to the legislative history of the bill, the Peace Officer’s Training Fund is no longer used by the Commission on Peace Officer Standards and Training (POST).]

P.C. 13823.5
P.C. 13823.7
P.C. 13823.9
P.C. 13823.11
P.C. 13823.13
P.C. 13823.93
P.C. 13823.95
(Amended)
(Ch. 714) (AB 538)
(Effective 1/1/2020)

Adds nurse practitioners and physician assistants to those (physicians, surgeons, nurses) who are authorized to perform a medical evidentiary examination on a sexual assault victim.

Permits the form for a sexual assault examination that the Office of Emergency Services is tasked with developing in cooperation with the State Dep’t of Public Health and the DOJ to be issued as a paper version and an electronic version. Permits the electronic version to include links to the California Victim Compensation Board to help victims apply for compensation.

Deletes the provision that had limited to \$300 the amount that a hospital, medical facility, or healthcare professional could charge for a medical evidentiary examination of a sexual assault victim, and instead requires the Office of Emergency Services to determine the reimbursement amount once every five years. Continues to prohibit the patient/victim from being charged for the examination. Continues to provide that the local law enforcement agency

continued

in whose jurisdiction the alleged offense was committed is responsible for paying the cost of the examination and now requires that the bill be paid within 60 days.

Continues to permit the local law enforcement agency to seek reimbursement for medical examination costs from the Office of Emergency Services.

Requires a standardized medical evidentiary examination to be provided to a sexual assault victim who is undecided at the time of examination whether to make a report to law enforcement.

Permits a minor to consent to, or withhold consent for, a medical evidentiary examination without the consent of a parent or guardian.

Amends P.C. 13823.11 (minimum standards for the examination and treatment of sexual assault victims) to require that baseline testing for sexually transmitted infections be done for a child, a person with a disability, or a person residing in a long-term care facility, if forensically indicated, and to require for a victim with a history of strangulation that best practices be followed for a complete physical examination and diagnostic testing.

Updates references by changing “child molestation” to “child sexual abuse” throughout these sections.

P.C. 13836
(Amended)
(Ch. 177) (AB 640)
(Effective 1/1/2020)

Requires the training course developed by the advisory committee within the Office of Emergency Services for district attorneys on the investigation and prosecution of sexual assault cases, child sexual exploitation cases, and child sexual abuse, to also include training on the investigation and prosecution of sexual abuse cases involving victims with developmental disabilities.

P.C. 13899.1
(Amended)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Extends the sunset date for six months, from January 1, 2021 to July 1, 2021, for P.C. 13899, which requires CHP, in coordination with DOJ, to convene a regional property crimes task force to assist local law enforcement in counties identified by CHP as having elevated levels of property crimes, including organized retail theft (P.C. 490.4) and vehicle burglary. Requires the task force to provide local law

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enforcement in the identified region with logistical support and equipment, as determined by CHP in consultation with task force members.

P.C. 14130
P.C. 14131
P.C. 14132
(New)
(Ch. 735) (AB 1603)
(Effective 1/1/2020)

Creates new Title 10.2 in Part 4 of the Penal Code, entitled “California Violence Intervention and Prevention Grant Program” and provides that it shall be known as the “Break the Cycle of Violence Act.”

Codifies the California Violence Intervention and Prevention Grant Program (CalVIP) that was established in the Budget Act of 2019, and increases the maximum grant amount from \$500,000 to \$1.5 million. Provides that CalVIP grants are to be awarded on a competitive basis to cities that are disproportionately impacted by violence, and to community-based organizations that serve the residents of those cities. The Board of State and Community Corrections administers this program.

Defines “disproportionately impacted by violence” as any of the following: (1) the city experienced 20 or more homicides per calendar year during two or more of the three calendar years immediately preceding the grant application; or (2) the city experienced 10 or more homicides per calendar year and had a homicide rate that was at least 50 percent higher than the statewide homicide rate during two or more of the three calendar years immediately preceding the grant application; or (3) an applicant demonstrates a unique and compelling need for additional resources to address the impact of homicides, shootings, and aggravated assaults.

Requires the Board to award at least two grants to cities with a population of 200,000 or fewer.

Provides that these new sections will sunset on January 1, 2025.

P.C. 14235
P.C. 14236
P.C. 14237
P.C. 14238
(New)
(Ch. 728) (AB 521)
(Effective 1/1/2020)

Creates Chapter 2 in Title 12.2 of Part 4 of the Penal Code, entitled “Medical and Health Provider Education and Training Program.”

If the Regents of the University of California adopt a resolution making these new sections applicable to the University of California, the University of California Firearm

continued

Violence Research Center at the University of California at Davis will be required to develop multi-faceted education and training programs for medical and mental health providers on the prevention of firearm-related injury and death, and then launch a comprehensive dissemination program to promote the education and training programs to physicians, mental health care professionals, physician assistants, nurses, nurse practitioners, health students, and other relevant groups. Specifies a number of things that the education and training programs must address, such as the role of healthcare providers in preventing firearm-related harm, and appropriate tools for practitioner intervention with patients who are at risk for firearm-related injury or death.

P.C. 16531
P.C. 16532
(New)
(Ch. 730) (AB 879)
(Effective 1/1/2020)

New P.C. 16531 defines “firearm precursor part” as a component of a firearm that is necessary to build or assemble a firearm and that is either an unfinished receiver or an unfinished handgun frame. Provides that an unfinished receiver includes both a single part receiver and a multiple part receiver, such as a receiver in an AR-10- or AR-15-style firearm. Provides that an unfinished receiver also includes a receiver tube, a molded or shaped polymer frame or receiver, a metallic casting, a metallic forging, and a receiver flat, such as a Kalashnikov-style weapon system, a Kalashnikov-style receiver channel, or a Browning-style receiver side plate.

Provides that firearm parts that can only be used on antique firearms are not firearm precursor parts. Provides that a firearm precursor part is not a firearm or the frame or receiver of a firearm.

[Existing P.C. 23510 continues to provide for the purposes of a number of specified firearms crimes, that the reference to a “firearm” includes the frame or receiver of a firearm so that each firearm or the frame or receiver of each firearm constitutes a separate and distinct offense under the specified sections.]

New P.C. 16532 defines “firearm precursor part vendor” as a person or business that holds a valid firearm precursor part vendor license issued pursuant to new P.C. 30485. It provides that beginning July 1, 2023, licensed firearms dealers and licensed ammunition dealers will automatically

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be deemed licensed firearm precursor part vendors if they comply with the requirements of P.C. 30300–30340 (restrictions relating to ammunition) and P.C. 30342–30365 (ammunition vendors and licenses).

[This bill also creates new P.C. 30400–30495 to require, commencing July 1, 2024, that the sale of firearm precursor parts be conducted through a licensed firearms precursor part vendor. See P.C. 30400–30495, below, for more information.]

P.C. 16730
(Amended)
(Ch. 738) (SB 376)
(Effective 1/1/2020)

Revises the definition of “infrequent” as it relates to firearm transactions, to provide that it means fewer than six transactions per calendar year (i.e., a maximum of five transactions) and no more than 50 total firearms per calendar year.

[Previously, the definition of “infrequent” was fewer than six transactions per calendar year for handguns, and for firearms other than handguns (e.g., long guns) “infrequent” was defined as “occasional and without regularity.” And there was no maximum on how many firearms could be involved.]

P.C. 16960
(Amended)
(Ch. 110) (AB 1292)
(Effective 1/1/2020)

Expands the definition of “operation of law” for purposes of P.C. 26500–26590 by adding additional circumstances under which a firearm is deemed transferred by “operation of law” after the death of the firearm owner so that the transfer is not required to go through a licensed firearms dealer.

Adds these persons to the list of those to whom a firearm is transferred by operation of law:

1. the personal representative of an estate, if the estate includes a firearm;
2. the trustee of a trust that includes a firearm and that was part of a will that created the trust;
3. a person acting pursuant to a power of attorney in accordance with Probate Code 4000–4545;
4. a limited or general conservator appointed by the court pursuant to the Probate Code or the Welfare & Institutions Code;
5. a guardian ad litem appointed by the court pursuant to C.C.P. 372;

continued

6. a trustee of a trust that includes a firearm that is under court supervision;
7. a special administrator appointed by a court pursuant to Probate Code 8540; and
8. a guardian appointed by a court pursuant to Probate Code 1500.

P.C. 16990
 (Amended)
 (Ch. 110) (AB 1292)
 (Effective 1/1/2020)

Expands the definition of “a person taking title or possession of a firearm by operation of law” for a number of firearms statutes by adding additional circumstances under which a firearm is deemed transferred by “operation of law” after the death of the firearm owner so that the transfer is not required to go through a licensed firearms dealer. Adds these persons to the list of those to whom a firearm is transferred by operation of law:

1. the personal representative of an estate, if the estate includes a firearm;
2. the trustee of a trust that includes a firearm and that was part of a will that created the trust;
3. a firearm passed to a decedent’s successor pursuant to Probate Code 13000–13210;
4. a person acting pursuant to a power of attorney in accordance with Probate Code 4000–4545;
5. a limited or general conservator appointed by the court pursuant to the Probate Code or the Welfare & Institutions Code;
6. a guardian ad litem appointed by the court pursuant to C.C.P. 372;
7. a trustee of a trust that includes a firearm that is under court supervision;
8. the trustee of a trust that is not referenced in (2) or (7), above;
9. a special administrator appointed by a court pursuant to Probate Code 8540; and
10. a guardian appointed by a court pursuant to Probate Code 1500.

P.C. 17060
 (Amended)
 (Ch. 840) (SB 172)
 (Effective 1/1/2020)

Adds a definition of “residence” for purposes of three new sections (P.C. 27881, 27882, 27883) that provide exceptions to the general rule in P.C. 27545 that a firearms transaction be completed through a licensed firearms dealer when neither party to the transaction is a licensed dealer. Residence is defined as any structure intended or used for human

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habitation, including houses, condominiums, rooms, motels, hotels, and timeshares, but does not include recreational vehicles or other vehicles where humans live. See below for a description of P.C. 27881, 27882, and 27883.

P.C. 18010
(Amended)
(Ch. 730) (AB 879)
(Effective 7/1/2024)

Beginning July 1, 2024, authorizes a district attorney, city attorney, or the Attorney General to bring an action to enjoin the importation or sale of a firearm precursor part that is unlawfully imported into California or unlawfully sold in California.

Also declares that firearm precursor parts that are unlawfully imported into California or unlawfully sold in California are a nuisance and subject to confiscation and destruction.

[This bill also creates new P.C. 30400–30495 to require, commencing July 1, 2024, that the sale of firearm precursor parts be conducted through a licensed firearms precursor part vendor. These new sections create a number of new misdemeanor crimes and provisions relating to firearm precursor parts that will go into effect on July 1, 2024. The purpose of these new sections is to prevent a person (especially a person prohibited from having a firearm) from purchasing firearm precursor parts (often purchased online) and assembling a firearm at home. These firearms have no serial numbers and thus are not traceable by law enforcement. They are referred to as “ghost guns.” See P.C. 30400–30495, below, for more information.]

P.C. 18108
(New)
(Ch. 727) (AB 339)
(Effective 1/1/2020)
P.C. 18109
P.C. 18115
P.C. 18120
P.C. 18150
P.C. 18160
P.C. 18170
P.C. 18175
P.C. 18180
P.C. 18185
P.C. 18190
P.C. 18197
(Amended)

(Ch. 724) (AB 12)
(Effective 9/1/2020)

and

(Ch. 725) (AB 61)
(Effective 9/1/2020)

and

(Ch. 733) (AB 1493)
(Effective 9/1/2020)

Makes several changes to gun violence restraining orders.

Duration of GVROs and Renewed GVROs

Extends the duration of a gun violence restraining order (GVRO) from one year to a range of one to five years (P.C. 18175(e)(1)). In determining the length of the GVRO, P.C. 18175(e)(2) requires the court to consider the length of time that the circumstances specified in P.C. 18175(b) are likely to continue:

1. the subject of the petition posing a significant danger of causing personal injury to himself/herself or to another person by having a firearm or ammunition; and
2. a GVRO being necessary to prevent personal injury to the subject of the petition or to another person because less restrictive alternatives are inadequate or inappropriate.

Also extends the duration of any renewal of a GVRO from one year to a range of one to five years (P.C. 18190(f)(1)). In determining the length of a renewed GVRO, P.C. 18190(f)(2) requires the court to consider the same P.C. 18175(b) factors listed above.

GVRO Termination Hearing

Provides that the restrained person is entitled to an annual hearing on whether the GVRO should be terminated (P.C. 18180(b) and 18185(a)). (Previously, the restrained person was entitled to one termination hearing during the one-year duration of the GVRO.) Continues to require the court to provide the restrained person with a form for requesting the termination hearing (P.C. 18180(b)).

Who May Seek a GVRO

Expands the list of persons who may seek an ex parte GVRO (P.C. 18150) or a GVRO after notice and hearing (P.C. 18170), or who may request the renewal of a GVRO (P.C. 18190), beyond an immediate family member or a law enforcement officer to add these three categories of people:

1. an employer of the subject of the petition;
2. a co-worker of the subject of the petition, if he or she had substantial and regular interaction with the subject for at least one year and has obtained approval of the employer; or

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3. an employee or teacher of a secondary or post-secondary school that the subject has attended in the last six months, if the employee or teacher has obtained the approval of a school administrator or a school administration staff member with a supervisory role.

Relinquishment of Firearm Rights If GVRO Petition is Not Contested

Adds a procedure in P.C. 18175(d) to permit the subject of a petition for a GVRO to file a form with the court voluntarily relinquishing firearm rights for the duration specified in the petition, or, if not stated in the petition, for one year from the date of the proposed hearing, and stating that he or she is not contesting the petition. Provides that if the subject files the relinquishment form, the court shall issue, without a hearing, a GVRO at least five court days before the scheduled hearing. If the subject files the relinquishment form within five court days before the scheduled hearing, the court is required to issue the GVRO as soon as possible without a hearing. Provides that if the subject files a relinquishment form and has not already surrendered firearms, ammunition, and magazines, the subject must follow the surrender procedures in existing P.C. 18120 within 48 hours of filing the relinquishment form. (P.C. 18120 provides that surrender may be to a local law enforcement agency, or, firearms and ammunition may be sold or transferred to a licensed firearms dealer.)

Relinquishment Form Procedures

Amends P.C. 18115 to require the court, when notifying DOJ about a GVRO, to indicate in the notice whether the person filed a firearm relinquishment form pursuant to P.C. 18175(d).

Requires the clerk of the court to enter the relinquishment of firearm rights form directly into the California Restraining and Protective Order System within one business day of the court issuing a GVRO based on a relinquishment of firearm rights. Provides that if this cannot be done electronically, the court must transmit a copy of the relinquishment form to a local law enforcement agency, which is then required to submit the form directly into the California Restraining and Protective Order System within one business day of receiving the form from the court.

continued

GVRO Petition May Be Brought in the Name of a Law Enforcement Agency

Amends P.C. 18109 to add that a petition for a GVRO brought by a law enforcement officer may be made in the name of the law enforcement agency that employs the officer.

Written Law Enforcement Policies and Standards

Adds new P.C. 18108 to require each municipal police department and county sheriff's department, the CHP, and the University of California and California State University Police Departments, by January 1, 2021, to develop, adopt, and implement written policies and standards for GVROs. Sets forth a number of items the policies and standards must include and requires that they be made available to the public upon request.

P.C. 23640
(Amended)
(Ch. 729) (AB 645)
(Effective 6/1/2020)

Adds a suicide warning to the warnings about safe handling and storage of firearms that are required on the packaging and descriptive materials accompanying a firearm sold or transferred by a licensed dealer or a licensed manufacturer. Requires that this sentence be added to the warning: "If you or someone you know is contemplating suicide, please call the national suicide prevention lifeline at 1-800-273-TALK (8255)."

P.C. 25100
P.C. 25105
(Amended)
(Ch. 840) (SB 172)
(Effective 1/1/2020)

Expands the crime of criminal storage of a firearm (P.C. 25100) by eliminating the requirement that the firearm be loaded. Now a violation of criminal storage of a firearm in the first degree (P.C. 25100(a)) or criminal storage of a firearm in the second degree (P.C. 25100(b)) or criminal storage of a firearm in the third degree (P.C. 25100(c)) may be committed by improperly storing an unloaded or loaded firearm.

P.C. 25105, which sets forth a number of exceptions to P.C. 25100, is also amended to delete the word "loaded."

P.C. 25100(a) applies when a person keeps an unloaded or loaded firearm on his or her premises knowing that a child is likely to gain access to the firearm or that a person prohibited from possessing a firearm is likely to gain access, and the child or prohibited person gains access to the firearm and causes death or great bodily injury to himself/herself or

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another person. Pursuant to existing P.C. 25110(a), P.C. 25100(a) remains a felony wobbler, punishable by 16 months, two years, or three years in jail pursuant to P.C. 1170(h), or by up to one year in jail.

P.C. 25100(b) applies when a person keeps an unloaded or loaded firearm on his or her premises knowing that a child is likely to gain access to the firearm or that a person prohibited from possessing a firearm is likely to gain access, and the child or prohibited person gains access to the firearm and causes injury other than great bodily injury to himself/herself or another person, or carries the firearm either to a public place or in violation of P.C. 417 (brandishing). Pursuant to existing P.C. 25110(b), P.C. 25100(b) remains a misdemeanor crime punishable by up to one year in jail and/or by a fine of up to \$1,000.

P.C. 25100(c) applies when a person keeps an unloaded or loaded firearm on his or her premises and negligently stores or leaves the firearm in a location where the person knows, or reasonably should know, that a child is likely to gain access to the firearm. Pursuant to existing P.C. 25110(c), P.C. 25100(c) remains a misdemeanor, punishable pursuant to P.C. 19 by up to six months in jail and/or by a fine of up to \$1,000.

P.C. 25200
(Amended)
(Ch. 840) (SB 172)
(Effective 1/1/2020)

Expands these firearm storage misdemeanors to long guns, by deleting “pistol, revolver, or other firearm capable of being concealed upon the person.” Now these crimes apply to firearms of any size.

This section continues to apply to the improper storage of a loaded or unloaded firearm.

P.C. 25200(a) applies when a person keeps a firearm on his or her premises knowing that a child is likely to gain access to the firearm or that a person prohibited from possessing a firearm is likely to gain access, and the child or prohibited person gains access to the firearm and carries it off the premises. Continues to be punishable by up to one year in jail and/or by a fine of up to \$1,000.

P.C. 25200(b) applies when a person keeps a firearm on his or her premises knowing that a child is likely to gain access to the firearm or that a person prohibited from possessing

continued

a firearm is likely to gain access, and the child or prohibited person gains access to the firearm and carries it off the premises to a school or school-sponsored event. Continues to be punishable by up to one year in jail and/or by a fine of up to \$5,000.

P.C. 25570
(Amended)
(Ch. 110) (AB 1292)
(Effective 1/1/2020)

Adds a new exception to the P.C. 25400 crime of carrying a concealed firearm on the person or in a vehicle: the transportation of a firearm by a person who took the firearm from someone who was committing a crime against the taker, and the firearm is being transported to a law enforcement agency "for disposition according to law," if prior notice is given to the law enforcement agency that the firearm is being transported to it.

[Retains the existing exceptions for transporting a firearm after finding it:

1. finding a firearm and transporting it in order to comply with Civil Code 2080–2080.10, which set forth the rights and obligations of a person who takes charge of lost property; or
2. finding a firearm and transporting it to a law enforcement agency after giving prior notice to the agency that the firearm is being transported to it.]

P.C. 26190
(Amended)
(Ch. 732) (AB 1297)
(Effective 1/1/2020)

Requires a local authority that issues licenses to carry a concealed firearm to charge an additional fee to cover the reasonable costs for processing an application for a new license, for issuing the license, and for enforcing the license. Eliminates the prohibition on charging more than \$100. Continues to provide that the additional fee goes to the city or county treasury. The application fee set by DOJ for a new license or the renewal of a license continues to be required.

Previously additional fees were charged at the discretion of the particular city or county, up to a maximum of \$100. Now the additional fees are mandatory and are required to equal the reasonable costs of processing, issuing, and enforcing the license.

[The legislative history of this bill claims that some police chiefs and sheriffs are charging inadequate fees to cover their costs, which then requires local governments to divert funds to cover the shortfall.]

P.C. 26392
(New)
(Ch. 110) (AB 1292)
(Effective 1/1/2020)

Adds three more exceptions to the numerous exceptions for the P.C. 26350 crime of openly carrying an unloaded handgun:

1. finding a handgun and transporting it in order to comply with Civil Code 2080–2080.10, which set forth the rights and obligations of a person who takes charge of lost property;
2. finding a handgun and transporting it to a law enforcement agency for disposition according to law, if prior notice is given to the agency that the handgun is being transported to it; or
3. taking a firearm from a person who was committing a crime against the taker and transporting it to a law enforcement agency for disposition according to law, if prior notice is given to the agency that the handgun is being transported to it.

[The numerous existing exceptions to the P.C. 26350 misdemeanor crime of openly carrying an unloaded handgun are in P.C. 26361–26391.]

P.C. 26406
(New)
(Ch. 110) (AB 1292)
(Effective 1/1/2020)

Adds three more exceptions to the numerous exceptions for the P.C. 26400 crime of carrying an unloaded *non*-handgun firearm in a prohibited place:

1. Finding a firearm and carrying it in order to comply with Civil Code 2080–2080.10, which set forth the rights and obligations of a person who takes charge of lost property;
2. Finding a firearm and transporting it to a law enforcement agency for disposition according to law, if prior notice is given to the agency that the firearm is being transported to it; or
3. Taking a firearm from a person who was committing a crime against the taker and transporting it to a law enforcement agency for disposition according to law, if prior notice is given to the agency that the firearm is being transported to it.

[Existing exceptions to the P.C. 26400 crime of carrying an unloaded non-handgun firearm in a prohibited area are listed in P.C. 26405.]

P.C. 26515
(Amended)
(Ch. 738) (SB 376)
(Effective 1/1/2020)

Adds the beneficiary of a trust that includes a firearm, and a decedent's successor, to those (persons who obtain title to a firearm by intestate succession or a bequest; surviving spouses) who are exempt from the requirements of transferring firearms through a licensed dealer if they dispose of the firearm within 60 days of receipt.

P.C. 26556
(New)
(Ch. 738) (SB 376)
(Effective 1/1/2020)

Provides that existing P.C. 26500 (requiring a person who sells, leases, or transfers a firearm to have a firearm dealer's license) does *not* apply to a formerly licensed firearms dealer.

Provides that P.C. 26500 does not apply to the sale, delivery, or transfer of a firearm that satisfies all of the following requirements:

1. It is made by a person who has ceased operations as a dealer.
2. It is made to a dealer, manufacturer, importer, or wholesaler.
3. It is made in accordance with specified federal law.
4. The transaction is reported to DOJ in a manner and format prescribed by DOJ.

P.C. 26576
(New)
(Ch. 738) (SB 376)
(Effective 1/1/2020)

Provides that existing P.C. 26500 (requiring a person who sells, leases, or transfers a firearm to have a firearm dealer's license) does *not* apply to a gun buy-back program run by a governmental entity.

Provides that P.C. 26500 does not apply to the sale, delivery, or transfer of a firearm if both of the following requirements are met:

1. The sale, delivery, or transfer is to an authorized representative of a city, county, or state government, or the federal government, and is for the governmental entity.
2. The entity is acquiring the firearm as part of an authorized, voluntary program in which the entity is buying or receiving firearms from private individuals.

Requires that any weapons acquired pursuant to a gun buy-back program be sold or destroyed.

P.C. 26577
(New)
(Ch. 738) (SB 376)
(Effective 1/1/2020)

Provides that existing P.C. 26500 (requiring a person who sells, leases, or transfers a firearm to have a firearm dealer's license) does *not* apply to the delivery or transfer of a firearm to a dealer pursuant to P.C. 29830 for the purpose of having the dealer store the firearm. (Existing P.C. 29830 permits a dealer to charge a fee for storage of firearms and ammunition, and requires the dealer to notify DOJ when taking possession.)

P.C. 26581
(New)
(Ch. 738) (SB 376)
(Effective 1/1/2020)

Provides that existing P.C. 26500 (requiring a person who sells, leases, or transfers a firearm to have a firearm dealer's license) does *not* apply to the delivery, sale, or transfer of an unloaded firearm that is not a handgun to a dealer, if the firearm is for a charitable auction, raffle, or similar event. Requires the transaction to satisfy both of the following conditions:

1. It is made by a non-profit public benefit or mutual benefit corporation, including a local chapter of the same non-profit corporation, organized pursuant to the Corporations Code.
2. The sale or transfer of the firearm is to occur as part of an auction, raffle, or similar event conducted by that non-profit public benefit or mutual benefit corporation.

P.C. 26582
(New)
(Ch. 110) (AB 1292)
(Effective 1/1/2020)

Provides that existing P.C. 26500 (prohibiting the sale, lease, or transfer of a firearm by a person who is not a licensed firearms dealer) does **not** apply to the delivery or transfer of a firearm to a law enforcement agency made in accordance with new P.C. 27922. New P.C. 27922 provides that P.C. 27545 (requiring a firearms transaction to go through a licensed firearms dealer if neither party to the transaction is a licensed dealer), does not apply to a person who takes possession of a firearm and subsequently delivers it to a law enforcement agency. See P.C. 27922, below, for more information.

P.C. 26589
(New)
(Ch. 110) (AB 1292)
(Effective 1/1/2020)

Provides that existing P.C. 26500 (prohibiting the sale, lease, or transfer of a firearm by a person who is not a licensed firearms dealer) does **not** apply to the delivery or transfer of a firearm to a dealer by the trustee of a trust if the delivery or transfer satisfies both of the following conditions:

continued

1. the trust is not of the type described in either P.C. 16990(k) or 16990(p); and
2. the trustee is acting within the course and scope of his or her duties as the trustee of that trust.

[P.C. 16990(k) specifies a trust that includes a firearm and that was part of a will that created the trust. P.C. 16990(p) specifies a trust that includes a firearm that is under court supervision.]

P.C. 26835
(Amended)
(Ch. 840) (SB 172)
(Effective 1/1/2020)

Makes a number of changes to the notices that a licensed firearms dealer is required to post.

Beginning January 1, 2020, changes the required notice that a licensed firearms dealer is required to post about keeping firearms away from children by deleting the word “loaded” so that the warning applies to unloaded and loaded firearms, and by changing a reference from concealable firearms to just “firearms” so that long guns are also included. These changes are consistent with amendments made by this bill to expand firearm storage crimes to unloaded firearms (P.C. 25100) and to long guns (P.C. 25200). (See P.C. 25100 and 25200, above.)

and

(Amended)
(Ch. 729) (AB 645)
(Effective 6/1/2020)

Beginning June 1, 2020, adds the following to the list of notices that a licensed firearms dealer is required to conspicuously post within the licensed premises: “If you or someone you know is contemplating suicide, please call the national suicide prevention lifeline at 1-800-273-TALK (8255).”

and

(Amended)
(Ch. 737) (SB 61)
(Effective 7/1/2021)

Beginning July 1, 2021, changes the required notice that a licensed firearms dealer is required to post about the prohibition on purchasing more than one pistol, revolver, or other concealable firearm in a 30-day period, by adding semiautomatic centerfire rifles to this prohibition and by changing “pistol, revolver, or other firearm capable of being concealed upon the person” to “handgun.” (SB 61 also amends P.C. 27535 to add semiautomatic centerfire rifles to the prohibition on making an application to purchase more than one handgun in a 30-day period. As of July 1, 2021, P.C. 27535 will apply to both handguns and semiautomatic centerfire rifles. See P.C. 27535, below.)

P.C. 26955
(Repealed)
(Ch. 738) (SB 376)
(Effective 1/1/2020)

Repeals the exemption that allowed a charitable auction to avoid a waiting period before a dealer could deliver a firearm at an auction or similar event.

P.C. 27205
P.C. 27210
P.C. 27220
P.C. 27225
P.C. 27235
P.C. 27240
P.C. 27305
P.C. 27310
P.C. 27315
P.C. 27320
P.C. 27340
P.C. 27345
(Amended)
(Ch. 736) (AB 1669)
(Effective 1/1/2020)

Expands laws that apply to the sale of firearms at gun shows to also apply to the sale of ammunition at gun shows. Adds sellers of ammunition and transferors of ammunition to existing laws about gun shows so that these statutes now apply to both sellers, lessors, and transferors of firearms, and to sellers and transferors of ammunition. Therefore, the producer of a gun show is now required to provide a list to local law enforcement and to DOJ of the persons and organizations that have rented space at the gun show to sell ammunition, in addition to the existing requirement to provide a list of firearm sellers. Sellers of ammunition must now provide specified information to the producer of the gun show, just as firearm sellers are already required to do.

Requires gun show vendors to certify in writing to the gun show producer that they will process all sales or transfers of ammunition through licensed firearms dealers or ammunition vendors.

Amends P.C. 27315 to require that the sale of ammunition at a gun show comply with all applicable laws, including P.C. 30347, 30348, 30350, 30352, and 30360.

[With the exception of P.C. 30360, these sections were enacted by the voters in Proposition 63 (November 2016) and they set forth the requirements for ammunition sales. Existing P.C. 30342 (also a part of Proposition 63) requires that a person or business have a valid ammunition vendor license in order to sell more than 500 rounds of ammunition in any 30-day period. Existing P.C. 30348(d) already provides that the sale of ammunition at a gun show must comply with all applicable laws, including P.C. 30347, 30350, 30352, and 30360.]

P.C. 27510
P.C. 27535
P.C. 27540
P.C. 27590
(Amended)
(Ch. 737) (SB 61)

(P.C. 27510 is effective
1/1/2020)

(P.C. 27535, 27540, 27590 are
effective **7/1/2021**)

Beginning July 1, 2021, P.C. 27535 is amended to add semiautomatic centerfire rifles in order to prohibit a person from making an application to purchase more than one semiautomatic centerfire rifle in a 30-day period. Previously P.C. 27535 applied only to handguns. Starting July 1, 2021, it will apply to handguns and semiautomatic centerfire rifles. Also specifically prohibits making an application to purchase both a handgun and a semiautomatic centerfire rifle within the same 30-day period.

P.C. 27535 continues to provide a number of exceptions, such as when the purchaser is a law enforcement agency, correctional facility, licensed private security company, peace officer, or a motion picture, television, or theatrical company whose production involves the use of a firearm.

Makes conforming amendments to both P.C. 27540 and 27590, effective July 1, 2021. P.C. 27590 continues to provide that a first violation of P.C. 27535 is an infraction punishable by a fine of \$50, that a second violation is an infraction punishable by a fine of \$100, and that a third or subsequent violation is a misdemeanor.

Amends P.C. 27510, effective January 1, 2020, to limit the exceptions for someone under age 21 being sold or given a long gun when the long gun is a semiautomatic centerfire rifle. P.C. 27510 generally prohibits any firearm (handgun or long gun) being sold or given to a person under age 21. The listed exceptions are that a person who is at least age 18 may be sold or given a long gun if he or she has a valid hunting license or is an active peace officer, active federal officer, reserve peace officer, active military, or has been honorably discharged from the military. SB 61 amends P.C. 27510 to prohibit persons under age 21 from being sold or given a semiautomatic centerfire rifle even if they have a valid hunting license or have been honorably discharged from the military. (They could be sold a long gun such as a shotgun, but not a semiautomatic centerfire rifle.) Persons who are at least age 18 and are active peace officers, active federal officers, reserve peace officers, or active military may continue to be sold or given any kind of long gun, including a semiautomatic centerfire rifle.

[Note that several types of semiautomatic centerfire rifles are specified in existing P.C. 30515 as being assault weapons:

continued

1. a semiautomatic centerfire rifle without a fixed magazine but that has one of the following: a pistol grip that protrudes conspicuously beneath the weapon, a thumbhole stock, a folding or telescoping stock, a grenade launcher or flare launcher, a flash suppressor, or a forward pistol grip;
2. a semiautomatic centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds; or
3. a semiautomatic centerfire rifle that has an overall length of fewer than 30 inches.]

P.C. 27655
 (Repealed)
 (Ch. 738) (SB 376)
 (Effective 1/1/2020)

Repeals the exemption that allowed a charitable auction to avoid a waiting period before a dealer could deliver a firearm at an auction or similar event.

P.C. 27881
P.C. 27882
P.C. 27883
 (New)
 (Ch. 840) (SB 172)
 (Effective 1/1/2020)

Adds three exceptions to the requirement in P.C. 27545 that a firearms transaction be completed through a licensed firearms dealer when neither party to the transaction is a licensed dealer.

P.C. 27881

Provides that P.C. 27545 does not apply to the loan of a firearm if all of the following conditions are met:

1. If the firearm being loaned is a handgun, the handgun is registered to the person making the loan.
2. The loan occurs within the lender's place of residence or other real property, but not within property zoned for commercial, retail, or industrial activity.
3. The person receiving the firearm is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.
4. The person receiving the firearm is at least 18 years old.
5. The firearm does not leave the real property upon which the loan occurs.

P.C. 27882

Provides that P.C. 27545 does not apply to the transfer of a firearm for the purposes of preventing a suicide, if all of the following conditions are met:

1. The firearm is temporarily transferred to another person who is at least 18 years of age, for safekeeping to prevent

continued

it from being accessed or used to attempt suicide by the transferor or another person who may gain access to the firearm in the transferor's household.

2. The transferee does not use the firearm for any purpose, and, except when transporting the firearm to the transferee's residence or when returning it to the transferor, keeps the firearm unloaded and secured in the transferee's residence in one of the following ways:
 - a. Secured in a locked container.
 - b. Disabled by a firearm safety device.
 - c. Secured within a locked gun safe.
 - d. Locked with a locking device that has rendered the firearm inoperable.
3. The duration of the transfer is limited to that amount of time that is reasonably necessary to prevent the suicide.

Provides that if the firearm cannot be returned to the owner because he or she is prohibited from possessing a firearm, the person in possession of the firearm must deliver it to a law enforcement agency without delay.

P.C. 27883

Provides that P.C. 27545 does not apply to the loan of a firearm if all of the following requirements are met:

1. The firearm being loaned is registered to the person making the loan.
2. The firearm is in the receiver's residence or in an enclosed structure on the receiver's private property that is not zoned for commercial, retail, or industrial activity.
3. The firearm at all times stays at the receiver's residence or in an enclosed structure on the receiver's private property.
4. The receiver is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.
5. The receiver is at least 18 years of age.
6. One of the following applies:
 - a. The firearm is in a locked container.
 - b. The firearm is disabled by a firearm safety device.
 - c. The firearm is in a locked gun safe.
 - d. The firearm is locked with a locking device that has rendered the firearm inoperable.
7. The loan of the firearm is for not more than 120 days.
8. The loan is made without consideration.

continued

9. Both the lender and the receiver sign a written document prescribed by DOJ that explains the obligations imposed by this section.
10. Both parties have signed copies of the document.

This bill also amends P.C. 17060 to add a definition of “residence” for purposes of these three new sections. It defines “residence” as any structure intended or used for human habitation, including houses, condominiums, rooms, motels, hotels, and timeshares, but does not include recreational vehicles or other vehicles where humans live.

P.C. 27900
(Repealed & Added)
(Ch. 738) (SB 376)
(Effective 1/1/2020)

Provides that existing P.C. 27545 (requiring that a firearms transaction be completed through a licensed firearms dealer when neither party to the transaction is a licensed dealer) does not apply to the loan of a firearm other than a handgun at a charitable auction, raffle, or similar event conducted by a non-profit if all of the following apply:

1. The firearm at all time remains on the premises where the auction, raffle, or similar event occurs.
2. The firearm is to be auctioned, raffled, or otherwise sold for the benefit of the non-profit.
3. The firearm, when sold, is delivered to a licensed dealer for transfer to the person who purchased the firearm.

[Previously, P.C. 27900 provided that P.C. 27545 does not apply to the infrequent sale or transfer of a firearm other than a handgun at a charitable auction or similar event. The amendment now requires that the transfer of a firearm to the purchaser at a charitable auction, raffle, or similar event be processed through a licensed dealer.]

P.C. 27920
(Amended)
(Ch. 110) (AB 1292)
(Effective 1/1/2020)

Expands the list of exceptions to existing P.C. 27545, which requires a firearms transaction to go through a licensed firearms dealer if neither party to the transaction is a licensed dealer. Adds a person to whom a firearm is passed as a decedent’s successor pursuant to the Probate Code, and the trustee of a specified trust, to those P.C. 27545 does not apply to, if the person submits a report to DOJ within 30 days and obtains a firearm safety certificate.

continued

Adds additional exceptions to P.C. 27585(a) (requiring that a firearm imported into California be first delivered to a licensed firearms dealer): a person who acquires ownership of a firearm as a personal representative of an estate, or as the trustee of a trust that includes a firearm and that was part of a will that created the trust, and within 30 days of taking possession of the firearm submits a report to DOJ. Requires that if the personal representative or trustee subsequently transfers ownership of the firearm to himself or herself in an individual capacity, he or she must obtain a firearm safety certificate.

P.C. 27922
(New)
(Ch. 110) (AB 1292)
(Effective 1/1/2020)

Provides that existing P.C. 27545 (requiring a firearms transaction to go through a licensed firearms dealer if neither party to the transaction is a licensed dealer), does not apply to a person who takes possession of a firearm and subsequently delivers it to a law enforcement agency if all of the following requirements are met:

1. the person found the firearm, or took the firearm from a person who was committing a crime against the person who took the firearm; and
2. the person taking possession of the firearm subsequently delivers the firearm to a law enforcement agency; and
3. the person gives prior notice to the law enforcement agency that he or she is transporting the firearm to it.

P.C. 27937
(New)
(Ch. 738) (SB 376)
(Effective 1/1/2020)

Provides that P.C. 27545 (requiring that a firearms transaction be completed through a licensed firearms dealer when neither party to the transaction has a dealer's license) does *not* apply to the sale, delivery, or transfer of a firearm made pursuant to new P.C. 26556.

[New P.C. 26556 provides that P.C. 26500 (requiring a person who sells, leases, or transfers a firearm to have a firearm dealer's license) does *not* apply to a formerly licensed firearms dealer if the sale, delivery, or transfer of a firearm satisfies all of the following requirements:

1. It is made by a person who has ceased operations as a dealer.
2. It is made to a dealer, manufacturer, importer, or wholesaler.

continued

3. It is made in accordance with specified federal law.
4. The transaction is reported to DOJ in a manner and format prescribed by DOJ.]

P.C. 28225
(Amended)

Makes changes to the fees that DOJ may require a firearms dealer to charge a firearms purchaser.

P.C. 28233
(New)

Amends P.C. 28225 to reduce the amount of the Dealers' Record of Sale (DROS) fee from \$14 to \$1.

P.C. 28235

P.C. 28240

(Amended)
(Ch. 736) (AB 1669)
(Effective 1/1/2020)

New P.C. 28233 authorizes DOJ to charge a new fee in addition to the fees specified in P.C. 28225 and 28230. DOJ may require a firearms dealer to charge each firearm purchaser a fee of \$31.19. Provides that this money is to be deposited in the Dealers' Record of Sale Supplemental Subaccount, within the Dealers' Record of Sale Special Account of the General Fund, to be available, upon appropriation by the Legislature, for DOJ to use to offset the reasonable costs of firearms-related regulatory and enforcement activities related to the sale, purchase, manufacturing, lawful or unlawful possession, loan, or transfer of firearms pursuant to any provision listed in P.C. 16580. (P.C. 16580 lists numerous firearms provisions between P.C. 12001 and 34370.)

P.C. 29010
(Amended)
(Ch. 738) (SB 376)
(Effective 1/1/2020)

Reduces the number firearms manufactured during a calendar year that require a person who has a federal license to manufacture firearms to also be licensed pursuant to California law. Previously, a person licensed to manufacture firearms pursuant to federal law who manufactured fewer than 100 firearms in a calendar year did not need to be licensed pursuant to California law. That number is changed to fewer than 50 firearms. Now a person licensed to manufacture firearms pursuant to federal law must also be licensed pursuant to P.C. 29030–29150 if he or she manufactures 50 or more firearms in a calendar year.

P.C. 29805
(Amended)
(Ch. 256) (SB 781)
(Effective 1/1/2020)

and

(Amended)
(Ch. 840) (SB 172)
(Effective 1/1/2020)

SB 172 adds, in new subdivision (c), the felony / misdemeanor crime of being convicted of a specified firearm storage crime (P.C. 25100, 25135, or 25200), and then owning, purchasing, receiving, or possessing a firearm within 10 years of that conviction. This new crime applies to any misdemeanor conviction of P.C. 25100, 25135, or 25200 that occurs on or after January 1, 2020. It is punishable by 16 months, two years, or three years in state prison, or by up to one year in county jail.

[P.C. 25100 contains the crimes of criminal storage of a firearm in the first degree, second degree, and third degree. P.C. 25135 is the crime of keeping a firearm in a residence where a person who is prohibited from having a firearm also lives, and not maintaining the firearm in a secure manner. P.C. 25200 contains the crimes of keeping a firearm on one's premises knowing that a child is likely to gain access to the firearm or that a person prohibited from possessing a firearm is likely to gain access, and the child or prohibited person gains access to the firearm and carries it off the premises, or gains access to the firearm and carries it off the premises to a school or school-sponsored event.]

New P.C. 29805(c) sets forth the felony / misdemeanor crime discussed above, by starting subdivision (c) with the language "[e]xcept as provided in Section 29855." Existing P.C. 29855 permits a peace officer who is subject to the firearm prohibition in P.C. 29805 because of a conviction for P.C. 273.5 (domestic violence), 273.6 (violation of a restraining order), or 646.9 (stalking), to petition the court once to reduce or eliminate P.C. 29805's firearm prohibition. SB 172 does **not** amend P.C. 29855 to add firearm storage crimes, so the meaning of 29805(c)'s cross-reference to 29855 is unclear. If the Legislature intended to permit a peace officer to petition the court to reduce or eliminate a P.C. 29805(c) firearm prohibition based on a misdemeanor conviction for P.C. 25100, 25135, or 25200, it should have added these sections to P.C. 29855.

There should not be any ex post facto issue with charging new P.C. 29805(c) based on a firearm storage misdemeanor *committed* before 2020, because the firearm conduct being punished will occur in 2020 or later, and thus does not pre-date P.C. 29805(c)'s effective date of 1/1/2020. In *People v. Mesce* (1997) 52 Cal.App.4th 618, 623, the court found that

continued

the defendant's conviction for former P.C. 12021(c) (now P.C. 29805) did not violate ex post facto principles because the firearm conduct being punished occurred after P.C. 12021(c)'s effective date. The court found that P.C. 12021(c) may be applied to defendants who committed a qualifying offense (e.g., a specified misdemeanor) prior to P.C. 12021(c)'s enactment.

[P.C. 29805(a) remains the felony / misdemeanor crime of owning, purchasing, receiving, or possessing a firearm with 10 years of a conviction for any one of a number of specified misdemeanor crimes. P.C. 29805(b) remains the felony / misdemeanor crime of owning, purchasing, receiving, or possessing a firearm at any time after being convicted of a misdemeanor violation of P.C. 273.5 (domestic violence) if the P.C. 273.5 conviction occurred on or after January 1, 2019. (The firearm ban for a P.C. 273.5 misdemeanor conviction that occurred before January 1, 2019 is 10 years. The firearm ban for a P.C. 273.5 misdemeanor conviction that occurs on or after January 1, 2019 is a lifetime ban.)]

SB 781 makes a technical, non-substantive amendment to the list of applicable misdemeanor crimes in P.C. 29805(a). It corrects the cross-reference to firearm theft crimes by changing "Section 490.2 if the property taken was a firearm" to "Section 487 if the property taken was a firearm." This change was made because P.C. 487(d) is the crime of grand theft of a firearm and any person guilty of the crime would be convicted of P.C. 487(d), not 490.2. And P.C. 490.2(c) specifically provides that it does not apply to the theft of a firearm.

P.C. 29825
(Amended)
(Ch. 726) (AB 164)
(Effective 1/1/2020)

Expands the crimes of purchasing, receiving, owning, or possessing a firearm knowing that one is prohibited from doing so by a temporary restraining order, injunction, or protective order, by adding knowing one is prohibited from doing so by an out-of-state order that include a firearms prohibition.

Subdivision (a) is the felony crime of purchasing, receiving, or attempting to purchase or receive, a firearm knowing that one is prohibited from doing so by a temporary restraining order, injunction, or protective order issued pursuant to a specified California statute. This bill adds a valid order issued by an out-of-state jurisdiction that is similar or equivalent to a California temporary restraining order, injunction, or protective order and that includes a prohibition on owning or possessing a firearm.

Subdivision (b) is the misdemeanor crime of owning or possessing a firearm knowing that one is prohibited from doing so by a temporary restraining order, injunction, or protective order issued pursuant to a specified California statute. This bill adds a valid order issued by an out-of-state jurisdiction that is similar or equivalent to a California temporary restraining order, injunction, or protective order and that includes a prohibition on owning or possessing a firearm.

Uncodified Section Two of this bill requires the Attorney General to undertake actions necessary to implement this act to the extent the Legislature appropriates funds for this purpose.

P.C. 30012
(New)
(Ch. 25) (SB 94)
(Effective 6/27/2019)

Requires DOJ, beginning April 1, 2020, to report annually to the Legislature about the Armed Prohibited Persons System (APPS), including the number of persons in the APPS, the number of active cases and pending cases, the number of people added to the APPS, the number of people removed from the APPS, and the number of firearms recovered due to enforcement of the APPS.

P.C. 30400
P.C. 30405
P.C. 30406
P.C. 30412
P.C. 30414
P.C. 30420
P.C. 30425
P.C. 30442
P.C. 30445
P.C. 30447
P.C. 30448
P.C. 30450
P.C. 30452
P.C. 30454
P.C. 30456
P.C. 30470
P.C. 30485
P.C. 30490
P.C. 30495

(New)
(Ch. 730) (AB 879)
(Effective 7/1/2024)

Creates new Chapter 1.5 in Division 10 of Title 4 of Part 6 of the Penal Code entitled "Firearm Precursor Parts."

Beginning July 1, 2024, requires the sale of firearm precursor parts to be conducted through a licensed firearm precursor part vendor.

Creates a number of new misdemeanor crimes and provisions relating to firearm precursor parts that will go into effect on July 1, 2024.

The purpose of these new sections is to prevent a person (especially a person prohibited from having a firearm) from purchasing firearm precursor parts (often purchased online) and assembling a firearm at home. These firearms have no serial numbers and thus are not traceable by law enforcement. They are referred to as "ghost guns."

Definition of "Firearm Precursor Part"

This bill creates new P.C. 16531 to define "firearm precursor part" as a component of a firearm that is necessary to build or assemble a firearm and that is either an unfinished receiver or an unfinished handgun frame. Provides that an unfinished receiver includes both a single part receiver and a multiple part receiver, such as a receiver in an AR-10- or AR-15-style firearm. Provides that an unfinished receiver also includes a receiver tube, a molded or shaped polymer frame or receiver, a metallic casting, a metallic forging, and a receiver flat, such as a Kalashnikov-style weapon system, a Kalashnikov-style receiver channel, or a Browning-style receiver side plate.

Provides that firearm parts that can only be used on antique firearms are not firearm precursor parts. Provides that a firearm precursor part is not a firearm or the frame or receiver of a firearm.

[Existing P.C. 23510 continues to provide for the purposes of a number of specified firearms crimes, that the reference to a "firearm" includes the frame or receiver of a firearm so that each firearm or the frame or receiver of each firearm constitutes a separate and distinct offense under the specified sections.]

continued

Definition of “Firearm Precursor Part Vendor”

This bill also creates new P.C. 16532 to define “firearm precursor part vendor” as a person or business that holds a valid firearm precursor part vendor license issued pursuant to new P.C. 30485. It provides that beginning July 1, 2023, licensed firearms dealers and licensed ammunition dealers will automatically be deemed licensed firearm precursor part vendors if they comply with the requirements of P.C. 30300–30340 (restrictions relating to ammunition) and P.C. 30342–30365 (ammunition vendors and licenses).

NEW MISDEMEANOR CRIMES

P.C. 30400

Subdivision (a)—selling a firearm precursor part to a person under age 21.

Subdivision (b)—supplying, delivering, or giving possession of a firearm precursor part to a minor who the supplier knows, or using reasonable care should have known, is prohibited from possessing a firearm or ammunition.

Provides that demanding, being shown, and acting in reasonable reliance upon, bona fide evidence of majority and identity is a defense to either crime.

Both crimes are punishable by up to six months in jail and/or by a fine of up to \$1,000.

P.C. 30405

Subdivision (a)(1)—a person prohibited from owning or possessing a firearm, owning, possessing, or controlling a firearm precursor part.

Punishable by up to one year in jail and/or by a fine of up to \$1,000.

Sets forth an exception to this new crime: finding a firearm precursor part or taking it from a person who was committing a crime against the taker, and possessing it no longer than necessary to deliver it to a law enforcement agency, if the person is prohibited from possessing a firearm precursor part solely because he or she is prohibited from owning or possessing a firearm pursuant to P.C. 29800–29865. Provides that at trial, the trier of fact must determine

continued

whether the defendant is eligible for this exemption. Places the burden on the defendant to prove by a preponderance of the evidence that the defendant is within the scope of the exemption.

P.C. 30406

Subdivision (a)—supplying, delivering, selling, or giving possession or control of a firearm precursor part to anyone who the supplier knows, or using reasonable care should know, is prohibited from owning, possessing, or having custody or control of a firearm precursor part. Punishable by up to one year in jail and /or by a fine of up to \$1,000.

Subdivision (b)—supplying, delivering, selling, or giving possession or control of a firearm precursor part to a person who the supplier knows or has cause to believe is not the actual purchaser or transferee of the firearm precursor part, with knowledge or cause to believe that the firearm precursor part is to be subsequently sold or transferred to a person who is prohibited from owning, possessing, or having custody or control of a firearm precursor part. Punishable by up to one year in jail and /or by a fine of up to \$1,000.

P.C. 30412

Subdivision (a)(1)—Failing to conduct the sale of a firearm precursor part through a licensed firearm precursor part vendor.

Subdivision (b)—Failing to conduct a firearm precursor part transaction in a face-to-face transaction. Permits a firearm precursor part to be ordered over the Internet or through other means of remote ordering if a licensed firearm precursor part vendor initially receives the part and processes the transaction.

Subdivision (e) provides that a violation of P.C. 30412 is a misdemeanor but does not specify the punishment. Therefore, pursuant to existing P.C. 19, it is punishable by up to six months in jail and /or by a fine of up to \$1,000.

Sets forth a number of exceptions, such as for a law enforcement agency or a sworn peace officer.

continued

P.C. 30414

Subdivision (a)—Bringing or transporting into California a firearm precursor part purchased or obtained outside of California, without first having the part delivered to a firearm precursor part vendor for delivery.

Subdivision (c) provides that a violation of P.C. 30414 is a misdemeanor but does not specify the punishment. Therefore, pursuant to existing P.C. 19, it is punishable by up to six months in jail and /or by a fine of up to \$1,000.

Sets forth several exceptions, such as for a sworn peace officer or a firearm precursor part vendor.

P.C. 30442

Subdivision (a)—Selling more than one firearm precursor part in any 30-day period, without a valid firearm precursor part vendor license.

Subdivision (d) provides that a violation of P.C. 30442 is a misdemeanor but does not specify the punishment. Therefore, pursuant to existing P.C. 19, it is punishable by up to six months in jail and /or by a fine of up to \$1,000.

Sets forth a number of exceptions, such as for law enforcement.

Some Other Provisions Relating to Firearm Precursor Parts

P.C. 30447—Requires an employee of a firearm precursor part vendor to obtain a certificate of eligibility from DOJ stating the employee is not prohibited from possessing, receiving, owning, or purchasing a firearm.

P.C. 30448—Requires the sale of firearm precursor parts by a licensed vendor to be conducted at the location specified in the license, except that the vendor may sell parts at a gun show if the gun show is not conducted from any motorized or towed vehicle.

P.C. 30452—Beginning July 1, 2025, requires a firearm precursor part vendor to record specified information at the time of delivery on a form to be prescribed by DOJ, including the purchaser's or transferee's full name, signature, residential address, telephone number, date of birth, and driver's license number or other identification

continued

number; the name of the salesperson; the date of the sale or transfer; and the brand, type, and number of firearm precursor parts sold or transferred. Requires the form to be electronically submitted to DOJ and requires DOJ to retain the information in a database to be known as the Firearm Precursor Part Purchase Records File.

P.C. 30456—Requires a firearm precursor parts vendor to, within 48 hours of discovery, report the loss or theft of any firearm precursor parts to the appropriate law enforcement agency.

P.C. 30470—Requires DOJ, beginning July 1, **2025**, to electronically approve the purchase or transfer of a firearm precursor part through a vendor, before the purchaser or transferee takes possession of the part. Permits DOJ to charge purchasers a \$1 transaction fee to be deposited in a fund to be known as the Firearm Precursor Parts Enforcement Special Fund.

P.C. 30485—Authorizes DOJ to begin accepting applications for firearm precursor part vendor licenses beginning July 1, **2023**.

P.C. 30490—Permits DOJ to charge firearm precursor part vendor license applicants a fee to reimburse DOJ for the reasonable costs of administering the firearm precursor parts program.

P.C. 30800
(Amended)
(Ch. 730) (AB 879)
(Effective 1/1/2020)

Expands the public nuisance provisions of this section that apply to assault weapons and .50 BMG rifles by adding manufacturing, importing, keeping for sale, offering or exposing for sale, giving, or lending these firearms. Previously this section applied only to possessing an assault weapon or .50 BMG rifle.

Continues to authorize a district attorney, city attorney, or the Attorney General to bring a civil action to enjoin these activities relating to an assault weapon or .50 BMG rifle, in lieu of criminal prosecution.

Increases the maximum civil fine possible for all activities except possession: up to \$500 for the first assault weapon or .50 BMG rifle that is a public nuisance, and up to \$200

continued

for each additional assault weapon or .50 BMG rifle that is a public nuisance.

Retains the maximum civil fine for possessing an assault weapon or .50 BMG rifle that is a public nuisance: up to \$300 for a first assault weapon or .50 BMG rifle, and up to \$100 for each additional one.

Continues to provide that any assault weapon or .50 BMG rifle that is deemed a public nuisance pursuant to this section shall be destroyed, unless there is a finding that the preservation of the weapon is in the interest of justice.

P.C. 31640
(Amended)
(Ch. 729) (AB 645)
(Effective 6/1/2020)

Adds the following to the list of warnings that a person taking the test for a handgun safety certificate is required to be given: "If you or someone you know is contemplating suicide, please call the national suicide prevention lifeline at 1-800-273-TALK (8255)."

P.C. 31700
(Amended)
(Ch. 110) (AB 1292)
(Effective 1/1/2020)

Adds a number of additional exemptions to the requirement of obtaining a firearm safety certificate. Provides that the following persons who take title or possession of a firearm, by operation of law in a representative capacity, until and unless they transfer title ownership of the firearm to themselves in a personal capacity, are exempted from the P.C. 31615(a) firearm safety certificate requirement:

and

(Amended)
(Ch. 840) (SB 172)
(Effective 1/1/2020)

1. the personal representative of an estate;
2. the trustee of a trust that includes a firearm and that was part of a will that created the trust;
3. a person acting pursuant to a power of attorney in accordance with Probate Code 4000–4545;
4. a limited or general conservator appointed by the court pursuant to the Probate Code or Welfare & Institutions Code;
5. a guardian ad litem appointed by the court pursuant to C.C.P. 372;
6. a trustee of a trust that includes a firearm that is under court supervision;
7. a special administrator appointed by a court pursuant to Probate Code 8540;
8. a guardian appointed by a court pursuant to Probate Code 1500;

continued

9. a person who takes possession of a firearm and complies with new P.C. 27922 by delivering it to a law enforcement agency (see above for more on P.C. 27922); and
10. a person taking possession of a firearm pursuant to new P.C. 27882 or new P.C. 27883. (See above for more on these two sections.)

Public Resources Code

Public Res. C. 5008.10
(New)
(Ch. 761) (SB 8)
(Effective 1/1/2020)

Creates these new infraction crimes related to smoking on state beaches or in state parks:

1. smoking on a state beach or in a unit of the state park system (does not apply to paved roadways or parking facilities); or
2. disposing of a used cigar or cigarette waste on a state beach or in a state park system unless the disposal is made in an appropriate waste receptacle.

All of these new infractions are punishable by a fine of up to \$25.

Requires the posting of signs at strategic locations. Prohibits the enforcement of the smoking infractions until signs are posted.

Provides that “smoking” includes an electronic smoking device that creates an aerosol or vapor, or the use of any oral smoking device for the purpose of circumventing a prohibition on smoking.

Provides that a “unit of the state park system” means an area specified in Public Res. C. 5002. Public Res. C. 5002 provides as follows: “All parks, public camp grounds, monument sites, landmark sites, and sites of historical interest established or acquired by the State, or which are under its control, constitute the State Park System except the sites and grounds known as the State Fair Grounds in the City of Sacramento, and Balboa Park in the City of San Diego.”

Public Res. C. 14306.5
(Amended)
(Ch. 571) (AB 278)
(Effective 1/1/2020)

Adds parolees to the list of people (those on probation, postrelease community supervision, or mandatory supervision) who may participate in the California Conservation Corps. Adds that the Director of the California Conservation Corps must consider an applicant’s overall fitness to join the corps, including but not limited to, an assessment of any impact the applicant may have on public safety or the safety of other corps members, whether the applicant is required to register as a sex offender, and whether the applicant is on lifetime parole.

continued

[According to the legislative history of this bill, Corps members must be California residents between the ages of 18 and 25.]

Public Res. C. 17003
(Amended)
(Ch. 571) (AB 278)
(Effective 1/1/2020)

Adds parolees to the list of people (those on probation, postrelease community supervision, or mandatory supervision) who may participate in a community conservation corps operated by a school district or county office of education.

Public Res. C. 42372
(New)
(Ch. 687) (AB 1162)
(Effective 1/1/2020)

Creates new Chapter 6.1 in Part 3 of Division 30 of the Public Resources Code entitled "Small Plastic Bottles."

Commencing January 1, 2023 for a lodging establishment with more than 50 rooms, and January 1, 2024 for lodging establishments with 50 rooms or fewer, prohibits a lodging establishment (defined as a hotel, motel, resort, bed and breakfast inn, or vacation rental) from providing a small plastic bottle containing shampoo, hair conditioner, or bath soap, in a sleeping room or bathroom. However, permits such small plastic bottles to be provided at the request of a guest at a place other than a sleeping room or bathroom. (Thus, a hotel could simply keep the small plastic bottles at the front desk and hand them out upon request.)

Defines "small plastic bottle" as a plastic bottle or container with a capacity of fewer than six ounces that is intended to be non-reusable.

Encourages the use of bulk dispensers of personal care products.

Authorizes a district attorney, county counsel, city attorney, or the Attorney General to bring an action to impose a civil penalty of \$500 for a first violation and \$2,000 for a second or subsequent violation.

Also authorizes a local agency with authority to inspect sleeping accommodations in a lodging establishment to issue citations for violations of this new section, but sets forth a different penalty scheme. Provides that a first violation is subject to a written warning only. A second or subsequent violation is subject to a penalty of \$500 for each day the establishment is in violation, but not more than \$2,000 annually.

continued

Provides that a city or county that, before January 1, 2020, passed an ordinance, resolution, or regulation relating to personal care products in plastic bottles provided at lodging establishments may enforce that ordinance, resolution, or regulation if it is at least as stringent as, and not in conflict with, this new section. Prohibits a city or county, on and after January 1, 2020, from passing an ordinance, resolution, or regulation relating to personal care products in plastic bottles provided at lodging establishments.

Public Utilities Code

Public Util. C. 2893.2
(New)
(Ch. 452) (AB 1132)
(Effective 1/1/2020)

Prohibits a caller from entering, or causing to be entered, false government information into a caller identification system with the intent to mislead, cause harm, deceive, or defraud the recipient of the call.

Also prohibits a person or entity from making a call knowing that false government information was entered into the caller identification system, with the intent to mislead, cause harm, deceive, or defraud the recipient of the call.

Provides that the above prohibitions do not apply to the following:

1. the blocking of caller identification information;
2. any local, state, or federal law enforcement agency;
3. any intelligence or security agency of the federal government; or
4. a telecommunications, broadband, or interconnected VoIP service provider that is acting solely as an intermediary for the transmission of telecommunications service between the caller and the recipient.

Provides that a person or entity committing a violation is subject to a civil penalty of up to \$10,000 for each violation and authorizes a district attorney, city attorney, or the Attorney General to bring an enforcement action.

Requires the Public Utilities Commission, if it determines that a violation of Public Util. C. 2871–2876 may have occurred, to notify both the district attorney of the county where the call was received and the Attorney General. (Public Util. C. 2871–2876 pertain to automatic dialing-announcing device violations.)

Provides that any person or entity committing a violation may be enjoined in any court of competent jurisdiction.

[According to the legislative history, this bill targets callers and entities that spoof the phone numbers of government entities so that the caller believes he or she is receiving a call from a legitimate government entity. Uncodified Section One of this bill contains the Legislature’s findings and declarations, including the following:

continued

1. "Spoofing" refers to the practice of using fake caller identification information to disguise the caller's identity from the recipient of the call.
2. A particularly pernicious form of spoofing is the use of caller identification information that presents the caller as being from the government.
3. Consistent with the federal Truth in Caller ID Act of 2009, California may regulate harmful spoofing that misrepresents the caller as being from the government.]

Public Util. C. 2893.5

(New)

(Ch. 471) (SB 208)

(Effective 1/1/2020)

The Consumer Call Protection Act of 2019.

Requires, on or before January 1, 2021, each telecommunications service provider to implement Secure Telephony Identity Revisited (STIR) and Secure Handling of Asserted information using toKENs (SHAKEN) protocols or alternative technology that provides comparable or superior capability to verify and authenticate caller identification for calls carried over an Internet protocol network.

Authorizes the Public Utilities Commission and the Attorney General to take all appropriate actions to enforce this section and any regulation promulgated under it.

Provides that a good faith effort to comply with these requirements shall be a defense to a B&P 17200 action (unlawful, unfair, or fraudulent business practice).

Uncodified Section Three of this bill provides that "[n]othing in this act requires a telecommunications service provider to employ call blocking."

[According to the legislative history of this bill, the Federal Communications Commission (FCC) has urged the adoption of industry-accepted SHAKEN/STIR standards to authenticate calls and prevent fraud whereby unscrupulous persons or entities engage in caller ID spoofing and illegal robocalls. With caller ID spoofing, the caller deliberately transmits fake caller ID information to the recipient's caller ID display in order to disguise the caller's identity and/or to make the recipient believe the call is local. According to the author of this bill, robocalls are the top consumer complaint in the United States.]

Vehicle Code

V.C. 1680
(New)
(Ch. 608) (AB 317)
(Effective 1/1/2020)

Creates the new infraction crime of selling, or offering to sell, an appointment with the DMV. Defines “appointment” as an arrangement to receive a government service at a specified time.

[According to the legislative history of this bill, a company has been selling DMV appointments for a fee. The company claims that its employees are constantly hitting refresh on DMV’s website to look for canceled appointments to book for its customers. The Legislature is concerned that the company may be making appointments under false names and birthdates, and then canceling the appointments and booking the canceled appointment under a customer’s name and birthdate. The purpose of the bill is to prevent this DMV appointment scheme and to prevent a company from making a profit off of something that is free to all persons. Making an online DMV appointment costs nothing.]

V.C. 10500
(Amended)
(Ch. 609) (AB 391)
(Effective 1/1/2020)

Shortens the amount of time that must pass before a peace officer is required to report a missing rented or leased vehicle to the DOJ Stolen Vehicle System. Previously the report by law enforcement to the Stolen Vehicle System was required to be made five days after the owner made written demand for the return of a rented or leased vehicle after the rental agreement or lease had expired. Now the report must be made to the Stolen Vehicle System if 72 hours have passed following the expiration of the rental or lease agreement and after the owner has attempted to notify the customer pursuant to new subdivision (b) in V.C. 10855. (See below for more on V.C. 10855.) Provides that this reduction will be in effect until January 1, 2024, at which time the statute goes back to the five-day time period.

[This bill also amends V.C. 10855 to provide that a rented or leased vehicle is presumed to be embezzled if it is not returned to the owner within 72 hours after the rental or lease agreement has expired. See V.C. 10855, below.]

V.C. 10855
(Amended)
(Ch. 609) (AB 391)
(Effective 1/1/2020)

Reduces, from five days to 72 hours, the amount of time that must pass after a rented or leased vehicle is not returned to its owner, for the person who rented or leased the vehicle to be presumed to have embezzled the vehicle.

Permits the owner of an unreturned rented or leased vehicle to report it as stolen when it is not returned 72 hours after the lease or rental agreement has expired and after the owner has attempted to contact the renter/lessee. Requires the owner of an embezzled vehicle to attempt to contact the person who has failed to return the vehicle using the contact method designated in the rental or lease agreement. If contact is made, the owner is required to tell the renter/lessee that if the vehicle is not returned, the owner may report it as stolen. If contact is not made after a reasonable number of attempts, or, if upon contacting the renter/lessee, the owner is not able to arrange for the return of the vehicle, it may be reported as stolen.

Permits an owner to report, at any time, that a rented or leased vehicle is stolen, even before the rental or lease period has expired, when the owner discovers that the vehicle was procured by fraud.

Requires a lease or rental agreement to disclose that the failure to return the vehicle within 72 hours of the expiration of the lease or rental period may result in the vehicle being reported stolen, and the agreement is required to state that the renter/lessee must provide a method for the owner to contact him or her.

Provides that V.C. 40000.1 does not apply to an owner who fails to comply with this section. (V.C. 40000.1 provides that except as otherwise provided, a violation of the Vehicle Code, or the failure to comply with any provision of the Vehicle Code, is an infraction.)

Provides that this new version of V.C. 10855 will be in effect until January 1, 2024, at which time the statute goes back to the five-day time period.

[This bill also amends V.C. 10500. See above.]

[According to the legislative history of this bill, every passing day that a vehicle rental company cannot report an unreturned vehicle as stolen, the likelihood of recovery

continued

decreases. Vehicles can be taken over the border, dismantled for parts, or re-tagged and sold to unsuspecting buyers.]

V.C. 12810.3
(Amended)
(Ch. 603) (AB 47)
(Effective 1/1/2020)

Beginning July 1, 2021, requires the DMV to assign a violation point on a person's driving record for the conviction of operating a handheld telephone while driving (V.C. 23123), operating a handheld wireless communications device while driving (V.C. 23123.5), or operating a wireless telephone or electronic device even if hands free if the person is under age 18 (V.C. 23124), if the offense occurs within 36 months of a prior conviction for the same offense. Until July 1, 2021, current law will remain in effect, prohibiting the assessment of points against a person's driving record for these infraction crimes. Beginning July 1, 2021, a point will be assessed for crimes occurring on and after July 1, 2021, if the offense occurs within 36 months of a prior conviction *for the same offense*. A first offense will not be assessed a point. The penalty for these crimes remains very low: a \$20 base fine for a first offense and a \$50 base fine for a subsequent offense.

[According to the legislative history of the bill, its purpose is to discourage distracted driving. The legislative history also recognizes that the use of electronic devices while driving carries the lowest base fine for any violation of the Vehicle Code, except violations for failing to wear a seatbelt.]

V.C. 13201.5
V.C. 13202
V.C. 13202.4
(Repealed)
V.C. 13202.5
(Amended)
V.C. 13202.6
(Repealed)
(Ch. 505) (SB 485)
(Effective 1/1/2020)

Eliminates driver's license suspension as a penalty for a number of crimes. The legislative history of the bill states that its goal is to prohibit driver's license suspension for non-vehicle related crimes. However, a number of provisions repealed by this bill specifically required that a vehicle be involved in order for a driver's license to be suspended. See below for a description of the repealed provisions.

Based on uncodified Section 15 of the bill, a defendant who commits a crime before January 1, 2020 but who is not convicted or sentenced until January 1, 2020 or later, would not be subject to driver's license suspension based on a repealed provision. And a defendant who is convicted before January 1, 2020 but not sentenced until January 1, 2020 or later, would not be subject to driver's license

continued

suspension based on a repealed provision. But any court order issued *before* January 1, 2020, suspending or restricting a license, or ordering the DMV to suspend or restrict a license, remains valid and is not affected by the repeal.

Uncodified Section 15 of the bill reads as follows:

“(a) This act is not intended to affect any order issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person. This act is also not intended to affect any action taken by the Department of Motor Vehicles, whether before, on, or after January 1, 2020, pursuant to an order issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict the driving privilege of a person.

“(b) This act is intended to remove the authority of the court to suspend, delay, or otherwise restrict the driving privilege, and to remove the authority of the court to order the Department of Motor Vehicles to suspend, delay, or otherwise restrict the driving privilege, of the following persons pursuant to this act:

“(1) Persons who are convicted, on or after January 1, 2020, of an offense described in this act that would have been subject to the suspension, delay, or restriction.

“(2) Persons who were convicted, before January 1, 2020, of an offense described in this act that would have been subject to the suspension, delay, or restriction, but for whom an order was not issued by the court before January 1, 2020, to suspend, delay, or otherwise restrict their driving privilege.”

V.C. 13201.5

V.C. 13201.5 is repealed in its entirety. Subdivision (a) previously permitted a court to suspend a driver’s license for up to 30 days for a conviction of P.C. 647(b) (prostitution) if committed within 1,000 feet of a residence and with the use of a vehicle. Subdivision (b) previously permitted a court to suspend a driver’s license for up to 30 days for a conviction of P.C. 647(a) (lewd act in public) where a peace officer witnessed the violator pick up a person and the violator subsequently engaged with that person in a lewd act within 1,000 feet of a private residence and with the use of a vehicle.

continued

V.C. 13202

V.C. 13202 is repealed in its entirety. Subdivision (a) previously permitted a court to suspend a driver's license, or to order the DMV to revoke a license, for any conviction related to controlled substances (H&S 11000–11651) when the use of a motor vehicle was involved in, or incidental to, the commission of the offense. Subdivision (b) previously required the court to order DMV to revoke a driver's license for a conviction of H&S 11350, 11351, 11352, 11353, 11357, 11359, 11360, or 11361 when a motor vehicle was involved in, or incidental to, the commission of the offense.

V.C. 13202.4

V.C. 13202.4 is repealed in its entirety. It previously permitted the court to suspend a driver's license for five years, or to order DMV to delay the driver's license, of a minor who commits a public offense involving a pistol, revolver, or other concealable firearm.

V.C. 13202.5

V.C. 13202.5 is amended to delete specified offenses from the list of crimes that require the court to suspend a driver's license for one year, or require the court to order DMV to delay the license for one year, when a person under age 21 and at least 13 years of age, is convicted of a specified crime in adult or juvenile court. Eliminates these crimes: crimes involving controlled substances or alcohol in B&P 4110–4126.9 (pharmacies), B&P 25658 (selling or furnishing alcohol to a person under age 21), B&P 25658.5 (person under age 21 attempting to purchase alcohol), B&P 25661 (person under age 21 presenting false identification for the purpose of ordering or purchasing alcohol), B&P 25662 (person under age 21 possessing alcohol in a public place), all Division 10 Health and Safety Code crimes (H&S 11000–11651), and P.C. 647(f) (under the influence of alcohol or a drug in a public place). [This bill also eliminates driver's license suspension provisions from the Business & Professions Code sections listed here.]

License suspension/delay provisions in V.C. 13202.5 are retained for vehicular manslaughter crimes in P.C. 191.5, vessel manslaughter crimes in P.C. 192.5, wet reckless crimes pursuant to V.C. 23103.5, 23140 (driving with a blood alcohol level of 0.05 or more and being under age 21), and violations involving alcohol or controlled substances in V.C. 23152 through 23229.1.

continued

V.C. 13202.6

V.C. 13202.6 is repealed in its entirety. It previously required the court to suspend a driver's license for up to two years, or required the court to order DMV to delay a driver's license for between one and three years, unless the court found the license suspension or delay would be hardship, for any defendant age 13 or older who was convicted in adult or juvenile court for a violation of P.C. 594 (vandalism), P.C. 594.3 (vandalism of a place of worship or a cemetery), or P.C. 594.4 (defacing or destroying with butyric acid or other caustic chemical).

[This bill also amends B&P 25658, 25658.4, 25658.5, 25661, 25662, P.C. 529.5, P.C. 647, and V.C. 23224 to eliminate driver's license suspension provisions.]

V.C. 13555

(Amended)

(Ch. 578) (AB 1076)

(Effective 1/1/2020)

Adds a cross-reference to new P.C. 1203.425.

V.C. 13555 provides that a termination of probation and dismissal of charges pursuant to P.C. 1203.4, or a dismissal of charges pursuant to P.C. 1203.4a, does not affect driver's license suspension or revocation and that even though conviction relief was granted, the prior conviction shall be considered a conviction for the purpose of revoking or suspending a driver's license on the ground of two or more convictions. This now applies to conviction relief granted pursuant to new P.C. 1203.425.

[P.C. 1203.4 permits the dismissal of charges in a case where probation was granted and the probation period is over, and P.C. 1203.4a permits the dismissal of charges in cases where a defendant is convicted of a misdemeanor and not granted probation, or is convicted of an infraction.]

[This bill also creates new P.C. 851.93 and new P.C. 1203.425 to require DOJ, beginning January 1, 2021, to grant automatic arrest record relief (P.C. 851.93) and automatic conviction record relief (P.C. 1203.425). See the Penal Code section of this digest for detailed information about these two new sections.]

V.C. 21215.2
(Amended)
(Ch. 280) (SB 543)
(Effective 1/1/2020)

Eliminates the sunset date on this section pertaining to pedicabs and alcohol, thereby continuing its provisions indefinitely. This section continues to require that any consumption of alcohol on board a pedicab must be authorized by a local ordinance or resolution, that a safety monitor age 21 or older must be on board whenever alcohol is being consumed by passengers, that alcohol may be supplied only by passengers (and not operators or safety monitors), and that operators of pedicabs and safety monitors must complete a specified training course.

V.C. 21761
(New)
(Ch. 710) (AB 2115)
(Effective 1/1/2020)
(2018 Legislation)

Requires a driver approaching and overtaking a stopped waste service vehicle, to make a lane change into an available lane adjacent to the waste service vehicle and pass at a safe distance, or, if a lane change is unsafe or not practical, requires a driver to slow down to a reasonable and prudent speed. Provides that these requirements apply only when the waste service vehicle is readily identifiable and is flashing amber lights. Defines a waste service vehicle as a refuse, recyclables, or yard waste collection vehicle. Has a delayed effective date of January 1, 2020.

[This new section is modeled after existing V.C. 21809, which requires a lane change or slowing down when passing a stationary emergency vehicle or tow truck that is flashing amber warning lights. Existing V.C. 21760 (the "Three Feet for Safety Act") provides requirements for the safe passing and overtaking of bicyclists.]

[Since no punishment is provided in this new section, a violation is an infraction pursuant to existing V.C. 40000.1, which provides that a violation of, or failure to comply with, any provision of the Vehicle Code is an infraction, unless otherwise provided.]

V.C. 23152.5
(New)
(Ch. 68) (AB 127)
(Effective 7/10/2019)

Provides an exemption for the crime of driving under the influence of a drug or under the combined influence of a drug and alcohol (V.C. 23152): driving in such a condition under the supervision of, and on the property of, CHP, for purposes of conducting research on impaired driving.

[The purpose of the bill is to permit CHP to be able to test impaired driving. Revenue & Taxation Code 34019(c), a part of Proposition 64 (which was enacted by California

continued

voters in November 2016 and legalized the recreational use of marijuana), requires the Controller to disburse \$3 million annually to the CHP “to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies.” This new statutory DUI exemption permits CHP to be able to test and observe the effects that marijuana has on driving ability without test subjects being in violation of V.C. 23152.]

V.C. 23155
(New)
(Ch. 610) (AB 397)
(Effective 1/1/2022)

Requires, beginning January 1, 2022, that when a court reports disposition information to DOJ as required by existing P.C. 13151 and the disposition involves a conviction for V.C. 23152(f) or 23153(f) involving solely cannabis, the disposition report must state that the offense was due to cannabis. V.C. 23152(f) is the crime of driving under the influence of a drug. V.C. 23153(f) is the crime of driving under the influence of a drug and causing injury.

The purpose of the bill is to have accurate and reliable data regarding how many cannabis DUIs occur in California annually.

V.C. 23222
(Amended)
(Ch. 610) (AB 397)
V.C. 23223
V.C. 23225
V.C. 23226
(Amended)
(Ch. 497) (AB 991)
(Effective 1/1/2020)

Makes a non-substantive, technical amendment to correct a cross-reference in these crimes that pertain to the possession of alcohol or cannabis in a vehicle. The cross-reference had been to subdivision (b) of V.C. 23220 and is now corrected to subdivision (c) of V.C. 23220. V.C. 23220(c) refers to lands to which the Chappie-Z’berg Off-Highway Motor Vehicle Law of 1971 applies, that is, lands other than a highway that are open and accessible to the public. This correction of the cross-reference simply clarifies that these Vehicle Code crimes involving alcohol or cannabis in a vehicle apply on a highway or on V.C. 23220(c) (offroad) lands.

V.C. 23224
(Amended)
(Ch. 505) (SB 485)
(Effective 1/1/2020)

Eliminates the provision that had made a person under age 21 who was convicted of this crime (V.C. 23224) subject to the driver's license suspension penalties in V.C. 13202.5. V.C. 23224(a) is the misdemeanor crime of a person under age 21 knowingly driving a motor vehicle carrying an alcoholic beverage, unless the person is accompanied by a parent or responsible adult relative or is driving during the course of employment. V.C. 23224(b) is the misdemeanor crime of a passenger under age 21 in a motor vehicle knowingly possessing or controlling alcohol unless accompanied by a parent or responsible adult relative or the possession of alcohol is in the course of employment.

V.C. 13202.5, which no longer applies to V.C. 23224, requires the court to suspend a driver's license for one year, or requires the court to order DMV to delay a license for one year, when a person under age 21 and at least 13 years of age, is convicted of a specified crime in adult or juvenile court.

SB 485 eliminates driver's license suspension as a penalty for a number of crimes. The legislative history of the bill states that its goal is to prohibit driver's license suspension for non-vehicle related crimes. However, a number of provisions repealed by this bill, such as the driver's license suspension provision eliminated from V.C. 23224, pertain to crimes that involve a vehicle. See V.C. 13201.5–13202.6, above, for a discussion of the uncodified section of this bill (Section 15) providing that any order of driver's license suspension or delay made *before* January 1, 2020 is not affected by the repeal of license suspension provisions.

V.C. 23229
(Amended)
(Ch. 636) (AB 1810)
(Effective 1/1/2020)

Prohibits the use of marijuana, whether smoked or ingested, while a passenger in a bus, taxi, or limousine for hire. (Ingestion of alcohol by a passenger continues to be permitted.)

V.C. 27604
V.C. 27605
V.C. 27606
(Amended)
(Ch. 260) (AB 309)
(Effective 1/1/2020)

Expands the list of exemptions to the general prohibition against owning or operating a vehicle with law enforcement markings, to include a vehicle possessed by a federal, state, or local historical society or museum that is open to the public, where the vehicle is secured from unauthorized operation, and where the vehicle is not operated on a public road or highway unless either:

1. the vehicle is at least 25 years old; or
2. the vehicle is operated on a closed street for a celebration, parade, or local special event and local authorities with jurisdiction over the street closure have approved the vehicle's operation.

Exemptions in current law to this general prohibition include law enforcement vehicles used in movie and television productions, and vehicles first registered before January 1, 1979.

[According to the legislative history of this bill, the prohibition on owning or operating a law enforcement vehicle does not apply to vehicles first registered on or before January 1, 1979. The purpose of the bill is to make it legal for an organization, such as the San Diego Police Museum, to own and display post-1979 police cars and use them for community outreach.]

V.C. 38505
V.C. 38506
V.C. 38600
V.C. 38601
V.C. 38602
V.C. 38603
V.C. 38604
(Amended)
(Ch. 469) (SB 785)
(Effective 1/1/2020)

Adds a cross-reference to existing V.C. 38001 to clarify that these statutes that set forth requirements and restrictions for recreational off-highway vehicles apply to such vehicles when they are operated on lands other than a highway that are open and accessible to the public, but not on private land where the landowner has given permission for the operation of an off-highway motor vehicle. (The Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 is contained in V.C. 38000–38604.)

V.C. 40610
(Amended)
(Ch. 364) (SB 112)
(Effective 9/27/2019)

Permits a person who is arrested or cited for a violation of vehicle exhaust system noise standards to fix the noise violation and provide proof of correction, unless the violation involves modifying the exhaust system of a motorcycle. Previously a fix-it ticket was prohibited for a noise violation for any type of motor vehicle (V.C. 27150(a)) and was prohibited for modifying the exhaust system of any motor vehicle in order to increase noise (V.C. 27151(a)). Now an exhaust system noise fix-it ticket is prohibited only for V.C. 27151(a) exhaust system modification violations relating to motorcycles.

Welfare and Institutions Code

(See the Juvenile Delinquency section for W&I changes that pertain to that subject.)

- W&I 1456**
W&I 1457
W&I 1458
W&I 1459
(New)
(Ch. 584) (AB 1454)
(Effective 1/1/2020)
- Creates new Article 4 in Chapter 5 of Part 1 of Division 2 of the Welfare & Institutions Code, entitled "Trauma-Informed Diversion Programs For Youth."
- Requires the Board of State and Community Corrections to administer a grant program to award \$50,000 to \$2 million to local governments or non-profit organizations to promote positive youth development and prevent a young person's involvement or further involvement in the justice system. (Existing W&I 1454–1455 contain provisions for Trauma-Informed Diversion Programs for Minors.)
- W&I 5451**
W&I 5452
W&I 5453
W&I 5456
W&I 5462
W&I 5463
(Amended)
W&I 5465.5
(New)
W&I 5555
(Amended)
(Ch. 467) (SB 40)
(Effective 10/2/2019)
- Makes a number of changes to these sections pertaining to a housing conservatorship for persons who are incapable of caring for their own health and well-being due to a serious mental illness and substance use disorder. These sections continue to apply only in the pilot counties of Los Angeles, San Diego, and San Francisco, and the sunset date on the pilot program remains as January 1, 2024.
- A few of the changes:
1. Requires that a proposed conservatee meet all of these criteria:
 - a. the person has both a serious mental illness and a substance use disorder;
 - b. as a result of the mental illness and substance use disorder, the person has functional impairments, or a psychiatric history demonstrating that without treatment, it is more likely than not that the person will decompensate to functional impairment in the near future; and
 - c. as a result of the functional impairment and circumstance, the person is likely to become so disabled as to require public assistance, services, or entitlements.
 2. Continues to provide that a person for whom a conservatorship is sought has the right to a court or jury trial and clarifies that the standard of proof is beyond a reasonable doubt.
 3. Adds definitions of "serious mental illness," "substance use disorder," and "functional impairment."

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Defines “functional impairment” as being substantially impaired as the result of both a serious mental illness and a substance use disorder, being unable to live independently, and suffering an impaired physical condition.

4. Shortens the conservatorship period from one year to six months but continues to permit the conservator to petition the superior court to re-establish the conservatorship for six months or a shorter period.
5. Requires a conservator, every 60 days, to file a report with the court regarding the conservatee’s progress and engagement with treatment.
6. Permits a court to establish a temporary conservatorship for up to 28 days if a person has been detained eight or more times for evaluation and treatment pursuant to W&I 5150 in a 12-month period and other specified criteria are met.

W&I 5813.5
(Amended)
(Ch. 209) (SB 389)
(Effective 1/1/2020)

Expands the permissible use of Mental Health Services Act funds (Proposition 63, enacted in 2004) to parolees and lists the categories of persons who may benefit from these funds. Previously, this section simply provided that the funds could not be used for state prisoners or parolees from state prison. It now provides that funds may be used to provide mental health services to persons who are participating in a pre-sentencing or post-sentencing diversion program or who are on parole, probation, postrelease community supervision, or mandatory supervision. Continues to prohibit funds being used for persons incarcerated in state prison. [Proposition 63 in 2004 imposed a one percent income tax on personal income above \$1 million.]

W&I 6603
(Amended)
(Ch. 606) (AB 303)
(Effective 1/1/2020)

Adds a new subdivision(c) to establish detailed procedures for requesting and granting continuances in a sexually violent predator (SVP) trial.

Requires that written notice, together with affidavits or declarations detailing specific facts showing that a continuance is necessary, be filed and served on all parties in order to continue an SVP trial.

Requires all moving papers to be filed and served at least 10 court days before the hearing. Provides for more than a 10-court day notice if service is by mail. Ten court days

continued

is increased by five calendar days if the place of mailing is within California, increased by ten calendar days if the place of mailing is outside California but within the United States, increased by twenty calendar days if the place of mailing is outside the United States, and increased by two calendar days if service is by facsimile transmission.

Requires all opposing papers to be filed and served at least four court days before the hearing and all reply papers to be served at least two court days before the hearing. Permits a party to waive the right to have documents served in a timely manner after receiving actual notice of the request for a continuance.

If a party makes a motion to continue an SVP trial and does not comply with the above provisions, the court is required to hold a hearing to decide whether there is good cause for failure to comply. If the moving party is not able to show good cause, the court is required to deny the motion for the continuance of the trial.

Provides that a continuance shall be granted only upon a showing of good cause. Prohibits the court from finding good cause solely based on the convenience of the parties or a stipulation of the parties. If good cause to continue the trial is found, the court is required to "state on the record the facts proved that justify its finding." In determining whether good cause has been shown, the court is required to consider the general convenience and prior commitments of all witnesses, and is required to consider witness convenience and availability when selecting a new trial date if a continuance is granted. Limits the length of a continuance to only the time period shown to be necessary by the evidence at the continuance hearing.

Provides that good cause includes, but is not limited to, a situation in which the assigned SVP trial attorney has another trial or probable cause hearing in progress. In this situation, a continuance of the SVP trial cannot exceed 10 court days after the conclusion of the other trial or hearing.

[According to the legislative history of the bill, its purpose is to cut down on lengthy trial delays in SVP cases, which, if deemed an unconstitutional delay, can result in the release of a sexually violent predator without a trial. Cited in the

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legislative history is the case of *People v. Superior Court (Vasquez)* (2018) 27 Cal.App.5th 36, in which the defendant remained in custody for 17 years while several deputy public defenders requested continuances in order to prepare for trial as the case was transferred from one defense attorney to another.]

W&I 8103
(Amended)
(Ch. 861) (AB 1968)
(Effective 1/1/2020)
(2018 Legislation)

Amends subdivision (f) to extend the five-year ban on firearms for a person who is taken into custody pursuant to W&I 5150, assessed, and admitted to a facility for 72-hour psychiatric treatment because he or she is a danger to self or others, to a lifetime firearms ban if the person was previously taken into custody, assessed, and admitted for psychiatric treatment, one or more times during the year preceding the most recent admittance. In other words, a person assessed as a danger to self or others and admitted to a facility for treatment, within one year of a prior admittance, is prohibited from owning, possessing, controlling, receiving, purchasing, or attempting to purchase or receive firearms, for life. Retains the five-year firearm ban for persons with W&I 5150 holds who do not have a previous hold within the preceding year.

Notice of the Firearm Prohibition

Requires the facility to which a person is admitted, to inform the person of the five-year ban or lifetime ban on firearms, whichever applies, before or at the time of discharge from the facility, and requires notification that a court hearing may be requested in order to obtain an order permitting the person to have firearms. Requires DOJ to update the "Patient Notification of Firearm Prohibition and Right to Hearing Form" consistent with this amendment and requires a facility to provide the person with a copy of the form.

Requires the form to include information regarding how the person was referred to the facility and to include an authorization for the release of the person's mental health records, upon request, to the appropriate court, solely for use in a hearing for an order permitting the person to have firearms. Provides that a request for records may be made by mail to the custodian of records at a facility and shall not require personal service.

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Submitting the Form to Request a Hearing to Lift the Firearm Prohibition

Prohibits a facility from submitting the form on behalf of the person. Previously the facility was required to forward the form to the superior court if the person requested a firearms hearing at the time of discharge.

Timing of a Firearm Hearing

Extends the time for setting a hearing from within 30 days of the court receiving a request for a firearms hearing to within 60 days of the court receiving the request. Extends the length of time for which a district attorney may obtain a continuance, from 14 days to 30 days after the district attorney is notified of the hearing date by the clerk of the court.

Burden of Proof

Continues to provide that the people bear the burden at a hearing of showing by a preponderance of the evidence that the person would not be likely to use firearms in a safe and lawful manner, except where a person subject to a lifetime ban files a *subsequent* petition. At a hearing on any subsequent petition, the burden of proof is on the person/petitioner to establish by a preponderance of the evidence that he or she can use firearms in a safe and lawful manner.

Hearings to Eliminate the Firearm Ban

Provides that a person subject to a lifetime ban or a five-year ban on firearms may make one request for a firearms hearing at any time during the five-year period or the period of the lifetime prohibition. Provides that for a person subject to a lifetime ban, subsequent hearings may be requested if the court keeps the firearm prohibition in effect. If the court finds that the people have met their burden at a hearing of showing that the person would not be likely to use firearms in a safe and lawful manner and the person is subject to a lifetime ban, the court must inform the person of his or her right to file a subsequent petition no sooner than five years from the date of the hearing. Permits a person subject to a lifetime ban to file subsequent petitions every five years and places the burden on the person to show, by a preponderance of the evidence at any subsequent hearing that he or she can use firearms in a safe and lawful manner.

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The Felony Crime in W&I 8103(i)

Retains the W&I 8103(i) felony crime of owning, possessing, controlling, purchasing, receiving, or attempting to purchase or receive a firearm or deadly weapon in violation of W&I 8103. It remains punishable pursuant to P.C. 1170(h) by 16 months, two years, or three years in jail, or by up to one year in jail. (Persons taken into custody on W&I 5150 holds are subject to a firearm ban, but other persons are subject to a ban on firearms *and* deadly weapons (e.g., mentally disordered offenders, offenders found not guilty by reason of insanity, mentally incompetent defendants, and persons conserved pursuant to W&I 5350).

Retroactivity/Ex Post Facto Issues

The lifetime firearm ban should apply to any person taken into custody pursuant to W&I 5150 and admitted for 72-hour treatment on or after January 1, 2020, even if the preceding hold that makes the person subject to the lifetime ban occurred before January 1, 2020. It is the second hold and treatment within one year that subjects a person to the lifetime firearms ban, and if that occurs on or after January 1, 2020, there should not be any ex post facto issue.

W&I 15630.2
(New)

Amends the Elder Abuse and Dependent Adult Civil Protection Act in several ways.

W&I 15633

W&I 15633.5

W&I 15640

W&I 15655.5

(Amended)

(Ch. 272) (SB 496)

(Effective 1/1/2020)

Expands mandated reporters of financial abuse of an elder or dependent adult to include broker-dealers and investment advisers.

Permits broker-dealers and investment advisers to notify a “trusted contact person” designated by the elder or dependent adult to receive notice of known or suspected financial abuse, unless the trusted contact person is suspected of financial abuse. Also allows broker-dealers and investment advisers to temporarily delay disbursements or transactions if financial abuse is suspected and if they take specified steps involving notice to parties who are not suspected of financial abuse and notice to the local county adult protective services agency, local law enforcement agency, and the Dep’t of Business Oversight. (The authority to notify a trusted contact person or delay transactions does not extend to officers and employees of banks and credit unions, who are mandated reporters pursuant to existing W&I 15630.1.)

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As with existing W&I 15630.1, which makes bank and credit union employees mandated reporters of financial abuse, broker-dealers and investment advisers may refuse to honor a power of attorney if suspected financial abuse is reported. And the failure to report financial abuse pursuant to new W&I 15630.2 is the same as that in existing W&I 15630.1: a civil penalty of up to \$1,000, or, if the failure to report is willful, a civil penalty of up to \$5,000, to be paid by the employer of the mandated reporter. As with existing W&I 15630.1, the civil penalty shall be recovered in a civil action brought by the Attorney General, district attorney, or county counsel.

A number of other provisions in new W&I 15630.2 are similar to provisions in existing W&I 15630.1.

W&I 15657.03
(Amended)
(Ch. 628) (AB 1396)
(Effective 1/1/2020)

Adds that a court, when issuing a restraining order against a person who has physically abused an elder or dependent adult, may also issue an order requiring the restrained party to participate in mandatory clinical counseling or anger management courses provided by a counselor, psychologist, psychiatrist, therapist, clinical social worker, or other mental behavioral health professional.

W&I 15657.03 already permits an elder or dependent adult who has suffered physical abuse, deprivation of goods or services necessary to avoid physical harm or mental suffering, or financial abuse to seek a protective order. This bill adds that in cases of physical abuse or deprivation, the court may also order the restrained party to participate in counseling or anger management.

Requires the Judicial Council, by January 1, 2021, to revise or promulgate forms as necessary to effectuate this amendment.

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