

# **New Laws for 2023**

**The most important  
new statutes, rules, and forms  
for  
California Criminal Law, 2023**

**Selected and edited by**

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## GUIDE TO THIS MATERIAL

Each bill number is also a link to its full official text.

Many new statutes and rules fit under two or more categories but are included under only one. There are many cross references.

Only the most important new laws, rules and forms are included.

A complete list of new bills is at “[California Legislative Information, Publications, “New Laws Report.”](#) Almost-complete lists of new criminal statutes, are published by the [Senate Comm. on Public Safety](#) and the [Assembly Public Safety Comm. New Rules and Forms](#) are at the Calif. Courts web site. The Calif. Courts site has a page for “[Court-Related Legislation](#)”.

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

***New statutory text is in this font.*** Existing statutory text is in this font.  
~~Deleted text is in this font.~~

### Abbreviations:

AB = Assembly Bill

BP = Bus. and Professions Code

CCP = Code of Civil Procedure

CCR = California Code of Regs.

CDCR = CA Dept. of Correct. and Rehab. Def. = Defendant, or Defense

DOJ = CA Dept. of Justice

DV = Domestic Violence

EC = Evidence Code

FC = Family Code

FTA = Failure to Appear

GC = Government Code

HS = Health and Safety Code

M = Minor

PC = Penal Code

P = People, or Prosecution

SB = Senate Bill.

Stats = Statutes and Amendments to the Codes

VC = Vehicle Code

V = the Victim.

WI = Welfare and Inst. Code

W = Witness

Garrick Byers, certified as a Criminal Law Specialist by the State Bar’s Board. of Legal Spec., was a Public Defender for 35 years, was a CPDA President, and is currently a member of CPDA’s Legislative Committee. He was recently Interim Dir. of Sonoma County’s Independent Office of Law Enforcement Review and Outreach (IOLERO). He is currently in private practice. He is a frequent speaker and writer for CEB, CPDA, CACJ, and Public Defender offices, and others. Dec. 21, 2022, edition © Garrick Byers 2022.

## HIGHLIGHTS AND LOWLIGHTS

- California outlaws “ghost guns” (i.e., unserialized guns). [See Firearms](#)
- California regulates, and mostly prohibits, 3D printer guns. [See Firearms](#)
- The penalty for driving with no CDL is reduced. [See Vehicles.](#)
- New CDL suspensions for FTA on traffic tickets “effectively ... stopped,” 1/1/23, and all such suspension terminated 1/1/27. [See Vehicles](#)
- The Penal Code now has a “Recall and Resentencing” article, PC 1172 et seq., collecting many major such statutes. [See Recall & Resentencing](#)
- Plea bargains now permitted to “Nuisance” (PC 370) in lieu of many drug crimes, to avoid immigration consequences. [See Immigration and Crimes](#)
- PC 1203.41 (similar to PC 1203.4) extended to some state prison felonies. [See Criminal Records, Relief From](#)
- Several parts of 2021’s SB 2, concerning police misconduct become effective January 1, 2023. [See Peace Officers](#)
- The California Public Records Act [CPRA] recodified and made more “user friendly,” a 2021 law operative January 1, 2023. [See \[CPRA\]](#)
- Youth Bill of Rights expanded, and applied to “juvenile facilities,” places of confinement operated by, or for probation or courts. [See Juv. Justice](#)
- Juneteenth is now a court holiday. [See Courts](#)
- Statewide Covid-19 emergency measures all ended. [See Courts](#)

### Early Notices: Selected New Laws This Year with Delayed Operative Dates

- Starting Jan. 1, 2024, DOJ must develop “Race-Blind Charging” guidelines; prosecution agencies must then develop a 2-step process, with exceptions, starting Jan. 1, 2025. [See Criminal Procedure](#)
- The Racial Justice Act, expanded and retroactive to different categories of cases beginning in 2023, 2024, 2025, and 2026. [See Criminal Procedure](#)

TABLE OF CONTENTS

**GUIDE TO THIS MATERIAL** ..... 2

**HIGHLIGHTS AND LOWLIGHTS**..... 3

**TABLE OF CONTENTS** ..... 4

**APPEALS**..... 10

**ARRESTS AND DETENTIONS** ..... 10

*New Reason on Citation for Misdemeanor Arrestees with Certain  
Prior or Current Theft Issues* .....10

**ATTORNEYS**..... 11

*The New “Client Trust Account Protection Program” (CTAPP).....11*

**BACKGROUND CHECKS** ..... 12

*Specified Old Drug Convictions, For Which Relief Was Granted,  
Cannot Be Used to Deny Certain Teacher’s Credentials.....13*

**CALIFORNIA PUBLIC RECORDS ACT** ..... 13

*California Public Records Act Recodified to be “User Friendly” ...13*

**COURTS**..... 19

*New Court Holiday: Juneteenth, June 19. ....19*

*Jurors must be provided access to free public transit (with  
exceptions); judicial council to report on juror diversity.....20*

*Statewide Covid Emergency Measures all rescinded or sunsetted.21*

**CRIMES** ..... 21

*Freedom to Walk Act: No Ticketing for Jaywalking-type  
Infractions, Unless There is Immediate Danger of a Collision .....21*

<i>Repealed: Loitering with Intent to Commit Prostitution (PC 653.20)</i> .....	23
<i>Theft of Dogs Expanded to Include “Companion Animal” as Defined.</i> .....	24
<i>False Personation Expanded to Include Websites and Electronic Means, When Done to Defraud</i> .....	24
<i>Vehicular Manslaughter: Sideshows and Specified Speeding Added to Definition of “Gross Negligence”</i> .....	25
<i>Distinct Related Thefts Motivated by One Intent, Impulse, and Plan, which Aggregate to Over \$950, is 1 Count of Grand Theft ...</i>	26
<b>CRIMINAL PROCEDURE</b> .....	27
<i>Bench Warrant for FTA with Certain Prior FTAs.</i> .....	27
<i>Racial Justice Act Expanded and Made Retroactive in Stages</i> .....	28
<b>CRIMINAL RECORDS; RELIEF FROM</b> .....	31
<i>PC 1203.41 Relief Extended to State Prison Felonies (with Exceptions)</i> .....	32
<i>Automatic Relief from Certain Arrest Records and Certain Conviction Records; Some Delay Again.</i> .....	35
<i>Relief from Conviction of the Now-Repealed Loitering with Intent to Commit Prostitution.</i> .....	36
<i>Courts and DOJ, Required to Complete the Job of Dismissing or Redesignating Old Cannabis Convictions.</i> .....	37
<b>DISCOVERY</b> .....	38
<b>DIVERSION; DEFERRED ENTRY OF JUDGMENT</b> .....	39
<i>Mental Health Diversion: Eligibility Criteria Changed.</i> .....	39
<i>Theft, and Repeat Theft, Crimes: Diversion or Deferred Entry of Judgment Program</i> .....	42

DOMESTIC VIOLENCE .....	44
<i>Medical Evidentiary Exams: Free of Charge and Enhanced</i> .....	44
EVIDENCE .....	46
<i>EC 782.1 Amended to Reflect the Repeal of PC 653.22, Loitering     with Intent to Commit Prostitution.</i> .....	46
<i>Court Hearing Required to Disclose Immigration Status in Open     Court (with Exceptions): Re-enacts Prior Law.</i> .....	46
<i>Limits On Admissibility of Creative Expressions</i> .....	47
FIREARMS .....	49
<i>Unserialized Firearms (Ghost Guns) Heavily Regulated.</i> .....	49
<i>3D Printing of Guns Requires a License, Other License Provisions</i> .....	51
<i>Gun Shows Regulated Concerning Ghost Guns</i> .....	52
FORMS .....	53
<i>Expected New Forms.</i> .....	54
HABEAS CORPUS .....	54
<i>Petition Allowed When Significant Dispute Develops About Expert     Evidence Used to Convict.</i> .....	54
IMMIGRATION AND CRIMINAL LAW .....	57
<i>Plea Bargain Permitted to Dismiss a Drug Charge and Plead To     “Nuisance,” To Avoid Immigration Consequences.</i> .....	57
JAIL .....	59
JUVENILE JUSTICE .....	59
<i>Transfer to Adult Court Requires Clear and Convincing Evidence     that Minor is Not Amenable to Rehabilitation in Juvenile Court</i> .60	

<i>Dismissal in the Interests of Justice and M's Welfare (WI 782).....</i>	<i>61</i>
<i>Room Confinement: New Rules and Restrictions.....</i>	<i>63</i>
<i>Juvenile Court Must Award One Day Credit for Each Day that M Serves on Electronic Monitoring [EM] .....</i>	<i>64</i>
<i>Several Rights Are Added to The Youth Bill of Rights, Which Now Applies to All "Juvenile Facilities." .....</i>	<i>65</i>
<b>MENTAL HEALTH .....</b>	<b>68</b>
<i>Mental Health Records Must Accompany Inmates Transferred Between CDCR and State Hospitals or Counties. ....</i>	<i>68</i>
<i>Incompetency to Stand Trial: PC 1369.1, allowing approved jails to be treatment facilities is repealed; and other changes.....</i>	<i>69</i>
<b>PAROLE and POSTRELEASE COMMUNITY SUPERVISION (PRCS) .....</b>	<b>71</b>
<b>PEACE OFFICERS .....</b>	<b>72</b>
<i>The new "Peace Officer Standards Accountability Advisory Board" .....</i>	<i>72</i>
<i>Peace Officers No Longer Must Be [U.S.] Citizens, But Must Be "Legally Authorized to Work in the [U.S.]" .....</i>	<i>74</i>
<b>PRISONS AND JAILS .....</b>	<b>74</b>
<i>Compassionate Release Recodified and Streamlined.....</i>	<i>74</i>
<i>Wardens required to deliver process on an incarcerated person...77</i>	<i>77</i>
<i>Jail Discharge: Information and Phone Calls Must Be Provided..78</i>	<i>78</i>
<i>Deaths in Custody Must Be Reported on Institution Web Sites .....</i>	<i>79</i>
<i>Prisons and Youth Residential Placement or Detention Centers Must Provide Free Phone Calls to Incarcerated Persons .....</i>	<i>79</i>

<i>CDCR’s Updated (through 11/18/22) Credit-Earning Opportunities</i> .....	80
PROBATION and MANDATORY SUPERVISION .....	81
<i>Flash Incarceration Sunset Date Extended to Jan. 1, 2028</i> .....	81
PROFESSIONAL LICENSES AND CERTIFICATES .....	82
RECALL AND RESENTENCING.....	82
<i>The New “Recall and Resentencing” Penal Code Article</i> .....	82
<i>Eligibility Expanded for Traumatized Veterans to Petition for a     Lower Sentence.</i> .....	83
RESTITUTION .....	86
<i>Petitions for Relief from Convictions Can’t Be Denied Solely     Because Of Unfulfilled Restitution or Restitution Fine Orders.</i> ....	86
RULES OF COURT.....	88
<i>New or Revised Rules Effective January 1, 2023.</i> .....	88
<i>Determinate Sentencing Rules Were Updated eff. March 14, 2022.</i>	91
RULES OF PROFESSIONAL CONDUCT.....	91
<i>Rules 1.4 and 1.15 Amended for the New CTAPP, eff. Jan. 1, 2023.</i>	91
SEARCH AND SEIZURE .....	92
SENTENCES .....	92
<i>Courts must consider alternatives to incarceration</i> .....	93
<i>Misdemeanor Child Abuse and Elder Abuse added to list of gun     prohibition for 10 years.</i> .....	93
STATUTES OF LIMITATION.....	94



<i>Limitations Period for Mandated Reporters of Child Abuse to Report Abuse or Severe Neglect Increased.</i> .....	94
<b>VEHICLES</b> .....	96
<i>Penalties for Driving Without Having a Valid License, Reduced..</i>	96
<i>Driver License Suspensions for FTA, are “Effectively ... Stop[ped].”</i> .....	98
<b>VICTIM’S RIGHTS</b> .....	100
<i>Probation Must, On Request, Advise A Domestic Violence or Stalking V When Def Is Released on Probation.</i> .....	100
<i>Family Access to Information of a Minor’s Death Being Investigated</i> .....	101
<b>EARLY NOTICES</b> .....	102
<i>Judicial Council must issue, by 7/1/23, a matrix of offense-based classifications for all Juvenile Courts making commitments to secure youth treatment facilities</i> .....	102
<i>Drivers and Pedestrians Must be Told Reasons for the Stop Before Questioning for Criminal or Traffic Investigations</i> .....	102
<i>Race-Blind Charging Procedures to be Developed by DOJ Starting Jan. 1, 2024, and Prosecution Agencies Starting Jan. 1, 2025</i> .....	103
<i>Juvenile Interrogation by Law Enforcement Limited, July 1, 2024</i> .....	104
<b>BRIEFLY NOTED</b> .....	107





[T]his program is to promote compliance and avoid misconduct before a client is harmed by mismanagement of entrusted funds or property.

CTAPP will be implemented in phases. The first phase ... focuses on reporting and registration. By February 1, 2023, and annually thereafter, licensees are required to report to the State Bar if they are responsible for complying with any of the duties related to ... trust funds under rule 1.15 of the Rules of Professional Conduct. Those ... attorneys must ... register each account online through either their My State Bar Profile or the State Bar's agency billing system, [allowing them] to comply with the account registration requirement by having their firm submit the information required.

Those responsible attorneys must ... complete an annual self-assessment ... about the duties and practices for the ... handling of entrusted funds....

... [R]esponsible attorneys [must] certify that they are ... in compliance with ... rules and statutes governing client trust accounts and the safekeeping of funds.

More information ... is available at the [CTAPP](#) webpage....

### **New State Bar Rule 2.5 [CTAPP] Annual Reporting, Account Registration and Self-Assessment Completion Requirements]**

... State Bar Rule 2.5 [is] operative on January 1, 2023. [It] addresses the administrative implementation of CTAPP and includes, ..., definitions of key terms, fees for failure to timely comply, and the exemptions for certain lawyers.... [E]xempt licensees are [those] who w[ere] not on active status for the ... reportable ... period or ... who [were] not entitled to practice law at the ... reporting deadline for any reason other than voluntary inactive status.



### **BACKGROUND CHECKS**

See “Briefly Noted” for AB 1720, allowing a streamlined method for the Dept. of Social Services to decide on certain criminal records exemptions.



**Specified Old Drug Convictions, For Which Relief Was Granted, Cannot Be Used to Deny Certain Teacher’s Credentials.**

[SB 731 \(Stats. 2022, Ch. 814\)](#)

Amends Education Code sections 44243.5 and 44346.

For two other aspects of SB 731, see [Criminal Records: Relief From](#)

**From the Legislative Counsel’s Digest:**

[Before this bill, the] law require[d] the [Commission on Teacher Credentialing] to deny an application for ... a credential or the renewal of [one] for a person who has been convicted of a [drug] offense.

This bill ... prohibit[s] the record of a conviction for possession of specified [drugs] that is more than 5 years old and for which relief was granted from [going] to the committee or from being used to deny a credential.



**CALIFORNIA PUBLIC RECORDS ACT**

**California Public Records Act Recodified to be “User Friendly”**

[AB 473 \(Stats. 2021, Ch. 614\)](#)      Delayed effective date, to January 1, 2023.

About 420 conforming changes were made by [AB 474 \(Stats.. 2021, Ch. 615\)](#)

**The California Public Records Act (CPRA, a.k.a. PRA) is moved, from GC 6250 et seq. to GC 7920.000 et seq.**

[The CPRA is an *important investigative tool* for criminal law practitioners, e.g., to investigate issues under the Racial Justice Act, PC 745.]

[Note: *LEA = Law Enforcement Agency*]

From uncodified section 8 of AB 473:

*“This act [recodifies and re-writes] the [CPRA] ... in a more user-friendly manner without changing its substance. (Underline added. GB)*

From GC 7920.100:

*“Nothing in the CPRA Recodification Act of 2021 is intended to substantively change the law relating to inspection of public records....”*

The rewritten and recodified CPRA, is divided into seven parts:

Part 1, “*General Provisions*,” is §§ 7920.000 to 7920.545

Part 2, “*Disclosure and Exemptions Generally*,” is §§ 7921.000 to 7922.210.

Part 3, “*Procedures and Related Matters*,” is §§ 7922.505 to 7922.725.

Part 4, “*Enforcement*,” [by “[seeking] injunctive or declarative relief, or ... a writ of mandate....”] is §§ 7923.000 to 7923.500. See § 12.15, below.

Part 5, “*Specific Types of Records*,” is §§ 7923.600 to 7929.610. Part 5, Ch. 1 is “*Crimes, Weapons, and Law Enforcement*.”

Part 6, “*Other Exemptions from Disclosure*,” §§ 7930.000 to 7930.125. This “Secrecy Code,” lists, in alphabetical order, scores of specific exemptions.

Part 7, GC 7931.000. *“[The operative date is] January 1, 2023.*

### **Part 5, Ch 1: “*Crimes, Weapons, and Law Enforcement*.”**

Chapter 1 has five Articles.

**Article 1: “*Law Enforcement Records Generally*.”** (§§ 7923.600 to 7923.630.)

**Article 2: “*Obtaining Access to Law Enforcement Records*.”** (§§ 7923.650 to 7923.655.)

**Article 3:** “Records of Emergency Communications to Public Safety Authorities. (§ 7923.700.)

**Article 4:** “Records ... Relating to Crime Victims” (§§ 7923.700 to 7923.755.)

**Article 5:** “Firearm Licenses and Related Records (§§ 7923.800 to 7923.805.)

### **Article 1. Law Enforcement Records Generally**

[This replaces the former, PC 6254, subd (f). (PC 7923.630.)]

**From § 7923.600.** [Information that need not be disclosed. But see GC 7923.615, below, for disclosure of info. about “complaints” and “reports.”]

*(a) [With exceptions,<sup>[1]</sup> the CPRA] does not require the disclosure of ... complaints to, or investigations conducted by, or ... intelligence information or security procedures of, the [AG, DOJ,], the Office of Emergency Services and any ... police agency, ..., or ... any other ... agency for correctional, law enforcement, or licensing purposes....*

**From § 7923.605.** [Information that must be disclosed to victims, persons with injury or property damage and the like.]

*(a) ... [An LEA] shall disclose the names and addresses of persons involved in, or witnesses, other than [C.I.s], to, the incident, [property descriptions], the date, time, and location of the incident, all ... statements of the parties ... [and] ... witnesses, other than [Cis], to [Vs or their] representative ..., an*

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<sup>1</sup> See PC 832.7 for rules for certain incidents of LEA firearm use, or use of force with death or injury; and for sustained misconduct findings of specified sexual assaults, dishonesty, prejudice, and unlawful arrests or searches.

*insurance carrier [facing a claim], and [anyone] suffering ... injury or property damage ..., [due to a crime], unless the disclosure would endanger ...:*

- (1) The safety of a witness or other person involved .... [or]*
- (2) The successful completion of [this] or a related investigation.*

*(b) ... [The investigator's] analysis or conclusions [can be held back].*

*From § 7923.610. **[Publicly Available Information About Arrests]***

*... [An LEA] shall make public ... the following ..., except [when] disclosure ... would endanger the safety of a person involved ... or ... the successful completion of [this] ... or a related investigation:*

- (a) The full name and occupation of [everyone] arrested ....*
- (b) The individual's ,, description [as specified].*
- (c) The time and date of arrest.            (d) The time and date of booking.*
- [(e) & (f)] The location [and circumstances] of the arrest.*
- (g) The amount of bail set.            (h) The time and manner of release or the location where the individual is ... being held.*
- (i) All charges [holding] the individual ..., [and] outstanding warrants from other jurisdictions, parole ... and probation holds.*

*From § 7923.615. **[Public Information About Calls for Help]***

*(a)(1) ... [An] LEA [shall make public the information ... in para[.] (2),] except [when that] ... would endanger the safety of a person involved [or] the successful completion of [this] or a related investigation.*



*(2) Subject to ... [PC] 841.5<sup>[2]</sup> ..., [this] applies to the time, substance, and location of all complaints or requests for assistance ... and the time and nature of the response ..., including [the] crimes or incidents] alleged ...:*

*(A) The time, date, and location of occurrence.*

*(B) The time and date of the report.*

*(C) The name and age of [V]. [But see subd. (b) below; GB]*

*(D) The factual circumstances [of] the crime or incident.*

*(E) A general description of any injuries, property, or weapons....*

*(b)(1) ... [V]'s name [in any of 30 listed, sex crimes, DV, and others] may be withheld at [V's] request, or ... [a minor V's] parent or guardian ....*

*(2) [For Vs] of more than one crime [for one of which V (or M's parent or guardian) can request confidentiality, V's name can be withheld from all].*

*(c)(1) Subject to [PC] 841.5, the names and images of a ... human trafficking [V, and V's] immediate family..., other than a family member ... charged with [the crime involved], may be withheld at [V's] request [as specified].*

*From § 7923.620. [Disclosure to licensed private investigators, journalists, researchers, and specified others.]*

*(a) ... [I]f the ... request is made for a scholarly, journalistic, political, or governmental purpose, or ... for investigation purposes by a licensed private investigator ..., [an LEA] shall make public the following ..., except [when] disclosure of a particular item ... would endanger the safety of a*

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<sup>2</sup> PC 841.5 says a peace officer, or LEA, cannot disclose to anyone arrested, or who may be a [Def], the address or phone number of any V or W.

*person involved ... or ... the successful completion of [this] ... or a related investigation:*

*(1) Subject to [PC] 841.5 ... and this article, the current address of every individual arrested ....*

*(2) Subject to [PC] 841.5 ... and this article, [V's] ... address [unless the crime is among the 30 listed in [GC] 7923.615, subd. (b)].*

*(b) [This subd. says that address records can't be used for sales purposes.]*

*From § 7923.625. ... [A] ... recording that relates to a critical incident, as defined..., may be withheld only as follows:*

*(a)(1) During [a] criminal or administrative investigation, disclosure ... may be delayed [up to] 45 ... days after ... the agency knew or ... should have known about the incident, if ... disclosure would ... interfere with the investigation.... [Agencies] shall provide in writing ... the ... basis for [any delay] ... and the estimated date for disclosure.*

*(2) [This paragraph has conditions for continued withholding after 45 days.]*

*(b)(1) [This paragraph states when, and how, the agency] may use redaction technology, including blurring or distorting images or audio, to ... protect [privacy] interest[s].... [This] shall not interfere with the viewer's ability to fully, completely, and accurately comprehend the events ... [recorded]*

*(2) Except as provided in paragraph (3), if the agency [shows that] privacy of a subject depicted ... cannot ... be protected through redaction ... and that ... outweighs the public interest in disclosure, the agency may withhold the recording ..., [but it], ..., shall be disclosed ..., upon request, to ...:*

*(A) The subject of the recording whose privacy is to be protected....*

*(B) If the subject is a minor, the parent or legal guardian ....*

*(C) If the subject ... is deceased, an heir, [or others specified.]*

*(3) If disclosure ... would ... interfere with [a] criminal or administrative investigation, the agency shall provide [the basis] in writing ... and ... estimated date for ... disclosure .... [then withholding is permitted as specified]*

*(c) An agency may provide greater ... access ... than [stated here].*

*(d) ... [A] peace officer does not include any [CDCR] peace officer ....*

*(e) [A] ... recording relates to a critical incident if it depicts ....:*

*(1) An incident involving the discharge of a firearm at a person by a peace officer or custodial officer. [or]*

*(2) An incident [of] use of force by a peace [or custodial] officer ... against a person resulted in death or in great bodily injury.*

[GC 7923.750 also restricts disclosure of specified video or audio recordings.]

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**COURTS**

See “Briefly Noted” for “Superior Court: Lactation Rooms” in 2024.

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***New Court Holiday: Juneteenth, June 19.***

[AB 1655 \(Stats 2022, Ch. 753\)](#)

Amends GC 6700 and others.

From the Judicial Council ... Memorandum of Oct. 3, 2022, re: “Final status of 2022 Legislation ....”

Adds June 19, known as “Juneteenth,” as a California state holiday and judicial holiday.... Requires courts to be closed as a judicial holiday

Official Court Holiday schedule: <https://www.courts.ca.gov/holidays.htm>



***Jurors must be provided access to free public transit (with exceptions); judicial council to report on juror diversity.***

[AB 1981 \(Stats 2022, Ch. 326\)](#)

Amends CCP 215 and 241.

**From the Legislative Counsel’s Digest**

[Before this bill,] the travel reimbursement to be paid to jurors in ... criminal cases [was] \$0.34 per mile for each mile traveled in attending court after the first day, in going only.

This bill ... require[s] the mileage reimbursement provision described above to apply to travel both going and leaving [sic] court.

The bill would require that all jurors and prospective jurors who have been summoned be provided access to existing public transit services at no cost, as specified [and with exceptions]. The bill ... authorizes courts to partner with public transit operators to provide this no-cost service or to determine an alternate method of reimbursement up to a daily maximum of \$12.

This bill also requires the Judicial Council to set up a 2-year pilot program in at least 6 trial courts, including Alameda County; and to report study whether this this increases juror diversity and participation; and to report, by September 2026 to the Legislature both on that pilot program and on information for promoting juror diversity.

[Note: this new law does not have a delayed operative date. GB]



**Statewide Covid Emergency Measures all rescinded or sunsetted.**

**From “2022 Year in Review: Judicial Council of California:**

The California judicial branch ended its temporary COVID-19 emergency rules just a few months into 2022.... Effective April 30, Chief Justice Tani G. Cantil-Sakauye rescinded her remaining [statewide emergency measures](#) established to address pandemic-related challenges to court operations. Those measures had included extensions of time for holding preliminary hearings in criminal cases and ... fast-tracking local court rules adopted to address the impacts of the pandemic. A few months later, the Judicial Council [sunset its pandemic-related statewide emergency rules](#) still in effect, which had addressed personal appearance waivers by criminal defendants....



**CRIMES**

See: “Immigration and Criminal Law” for AB 2195, allowing plea bargains to “nuisance” (PC 372) instead of drug charges.



**Freedom to Walk Act: No Ticketing for Jaywalking-type Infractions, Unless There is Immediate Danger of a Collision**

[AB 2147 \(Stats. 2022, Ch. 957\)](#)

Amends VC 21451 to 21453, 21462, 21950, 21953 to 21956, 21961, 21966, and adds VC 21456 and 21949.5

**From the Legislative Counsel’s Digest**

This bill ... prohibit[s] a peace officer,... from stopping a pedestrian for specified traffic infractions unless ... there is an immediate danger of collision with a moving vehicle or other device moving exclusively by human power.

Most of these infractions are commonly called “jaywalking.”

Effective January 1, 2024, the bill also adds to one section for bicycles.

To each one of the following infractions, is added the following language:

*A peace officer ... shall not stop a pedestrian for a violation of [the covered infraction] unless a reasonably careful person would realize there is an immediate danger of a collision with a moving vehicle or [specified] device....*

The infractions covered are:

- VC 21451, subds. (c) and (d). [On a green light, cross in the crosswalk.]
- VC 21452, subd. (b). [On a yellow light, do not enter the roadway]
- VC 21453, subd. d). [On a red light, do not enter the roadway.]
- VC 21456, subds. (a)(1) to (a)(3). [The rules for “Walk, “Walking Person,” “Don’t Walk,” “Wait,” or “Upraised Hand.”]
- *[Eff. Jan. 1, 2014, rules for bicycles are added to VC 21456, subd. (a)(1).]*
- VC 21461.5 [Pedestrians must obey signs and signals.]
- VC 21462 [Drivers, animal handlers, pedestrians, and streetcars must obey applicable traffic signals, with exceptions.]
- VC 21950 [Pedestrians must use due care; can’t take dangerous actions; and, while in a crosswalk, can’t unnecessarily stop or delay traffic.]
- VC 21953 [Where there is a pedestrian tunnel or overhead, pedestrians crossing the road ... must yield ... to ... [immediately hazardous vehicles].]
- VC 21954. [Pedestrians on a roadway other than within a crosswalk at an intersection must yield to all vehicles that are an immediate hazard.]
- VC 21955. [Between adjacent intersections controlled by traffic control devices, pedestrians shall not cross except in a crosswalk.]

- VC 212956 [Pedestrians can walk on a road outside of a business or residence district only close to their left-hand roadway edge; with exceptions.]
- VC 21961 [Local authorities can have ordinances prohibiting pedestrians from crossing at other than crosswalks.]
- VC 21966 [Pedestrians cannot use a bicycle path where there is an adjacent pedestrian facility.]



**Repealed: Loitering with Intent to Commit Prostitution (PC 653.20)**

[SB 357 \(Stats. 2022, Ch. 86\)](#)

Repeals PC 653.20 and 653.22.

Amends EC 782.1, PC 647.3, 653.23, & 1203.47, WI 18259 and 18259.3.

Adds PC 653.29, for conviction-relief. See Criminal Records: Relief From.

From the Legislative Counsel’s Digest

[Before this bill, the law] prohibit[ed] ... loitering in a public place with the intent to commit prostitution ... or directing, supervising, recruiting, or aiding a person who is loitering with th[at] intent .... [A misdemeanor.]

This bill ... repeal[s] those provisions.

[This bill also makes conforming changes to EC 782.1, PC 647.3, 653.22, and 1203.47, and others.

This bill ... also authorize[s] a person convicted of ... [this type of] loitering ... to petition the court for the dismissal and sealing of their case, and resentencing, if applicable. [See Criminal Records; Relief From.]



**Theft of Dogs Expanded to Include “Companion Animal” as Defined.**

AB 1290 (Stats.. 2022, Ch. 546) Amends PC 487e, 487f, and 491.

**From Penal Code § 487e *as amended*.**

*(a)* Every person who feloniously steals, takes, or carries away a ~~dog-companion animal~~ ... [whose value ... exceed[s] ... \$950 is guilty of grand theft.

*(b)(1)* ... “[C]ompanion animal” means an animal, including, but not limited to, a dog or a cat that a person keeps ... as a household pet or ... for ... companionship, emotional support, service, or protection.

*(2)* ... “[C]ompanion animal” excludes feral animals,....

**From Penal Code § 487f *as amended*.**

*(a)* Every person who feloniously steals, [etc.] a ~~dog-companion animal~~ of another ... of a value not exceeding ... \$950 ... is guilty of petty theft.

*[Subds. (b)(1) and (b)(2) are the same as in PC 487e, above.]*

**From Penal Code § 491 *as amended***

~~Dogs~~ *(a) Companion animals* are personal property, and their value is ... ascertained in the same manner as the value of other property.

*[Subds. (b)(1) and (b)(2) are the same as in PC 487e, above.]*

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**False Personation Expanded to Include Websites and Electronic Means, When Done to Defraud**

AB 1899 (Stats. 2022, Ch. 954)

Amends PC 538d to 538h



From PC 538d, subdivision (a): re: Peace Officers (*as amended*)

Any person other than one who [has] the authority of a peace officer, who willfully wears [etc.] the authorized uniform, insignia, [etc.] certificate, [etc.], of a peace officer, with the intent of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that ~~he or she is~~ *they are* a peace officer, *or who willfully and credibly impersonates a peace officer through or on an internet website, or by other electronic means, for purposes of defrauding another*, is guilty of a misdemeanor.

Similar amendments are made to:

PC 538e, subd. (a), re: officers or members of a fire department

PC 538f, subd. (a), re: public utility employees

PC 538g, subd. (a), re: government officers or employees.

PC 538h, subd. (a), re: “officer or member of a government ... managed or affiliated search and rescue unit or team.”



*Vehicular Manslaughter: Sideshows and Specified Speeding Added to Definition of “Gross Negligence”*

SB 1472 (Stats. 2022, Ch. 626)

Amends PC 192

From the Legislative Counsel’s Digest

... [V]ehicular manslaughter [i]s [an] unlawful killing ... without malice while driving ... under specified circumstances, including in [committing] an unlawful act, not amounting to felony, with or without gross negligence....

This bill ... specif[ies] a list of circumstances that may, based on the totality of the circumstances, constitute gross negligence ..., including, ... when a person has participated in a sideshow or has sped over 100 [m.p.h.].

**From PC 192, subdivision (e) [gross negligence] as amended**

- (e) (1) .... (2) “Gross negligence,” as used in this section, may include, based on the totality of the circumstances, any of the following:***
- (A) Participating in a sideshow [as defined].***
  - (B) An exhibition of speed [as defined].***
  - (C) Speeding over 100 miles per hour.***



**Distinct Related Thefts Motivated by One Intent, Impulse, and Plan, which Aggregate to Over \$950, is 1 Count of Grand Theft**

[AB 2356 \(Stats. 2022, Ch. 22\)](#) Amends PC 487

This act adds a new subd. (e) to PC 487 (defining grand theft), and an uncodified statement that this is declaratory of existing law.

**From New Subdivision (e) of PC 487:**

***(e) If the value of the money, labor, ... property, [etc.] taken exceeds ... \$950 ... over the course of distinct but related acts, the value of the money, labor, real property, or personal property taken may ... be aggregated to charge a count of grand theft, if the acts are motivated by one intention, one general impulse, and one plan.***

**Uncodified section 2 of AB 2356**

*The amendment of Section 487 of the Penal Code made by this act is declaratory of existing law in People v. Bailey (1961) 55 Cal.2d 514.*

**From the Senate Committee on Public Safety report for May 31, 2022**

The California Supreme Court addressed the *Bailey* rule in *People v. Whitmer* (2014) 59 Cal.4th 733.... In a concurring opinion. Justice Liu distinguished acts committed with a common scheme from acts committed as part of a single impulse.... “[S]eparate and distinct takings do not fall under *Bailey*’s aggregation rule simply because... they were all done the same way. But neither does the mere fact that multiple takings are separate and distinct entail a finding of multiple thefts in every case. If the takings were committed pursuant to a single intention, impulse, and plan, then under *Bailey* they amount to only one theft.”



**CRIMINAL PROCEDURE**

See also Early Notices: Race Blind Charging Procedures to be Developed.



**Bench Warrant for FTA with Certain Prior FTAs.**

[AB 2294 \(Stats. 2022, Ch. 856\)](#)

Amends PC 978.5

Urgency, effective on Sept. 30, 2022. Sunsets January 1, 2026

For other aspects of AB 2294, see Arrests and Detention; and see Diversion and Deferred Entry of Judgment: Theft and Repeated Theft.

**From the Legislative Counsel’s Digest:**

.... Existing law authorizes ... a bench warrant in specified situations, including when [Def] fails to appear ... [FTA] after being ordered [to appear].

This bill ... authorize[s] the court to issue a bench warrant when [Def] [FTA'd] and [was] cited or arrested for misdemeanor or felony theft from a store and [was FTA on] with that charge ... in the previous 6 months.

**From PC 978.5 as amended.**

(a) A bench warrant of arrest may be issued **whenever when** [Def is FTA] ..., including, but not limited to, the following situations:

(1) to (6) ....

*(7) If [Def] has been cited or arrested for misdemeanor or felony theft from a store and [was FTA on] that charge ... in the previous six months.*

(b) .... (c) This section shall ~~...~~ **[sunset on January 1, 2026].**



**Racial Justice Act Expanded and Made Retroactive in Stages**

[AB 256 \(Stats. 2022, Ch. 739\)](#)

Amends PC 745

The Racial Justice Act (RJA, PC 745), is amended in two ways. The first way concerns how RJA violations are proved. The second way is in how the RJA reaches back to older convictions.

**From the Legislative Counsel’s Digest:**

[PC 745, the Racial Justice Act (RJA)] prohibits the state from seeking a ... conviction or sentence [based on] race, ethnicity, or national origin, as specified, and [when] judgment has not been entered prior to January 1, 2021, allows a petition to be filed alleging a violation of that prohibition.

Existing law authorizes a court that finds [an RJA violation] to impose specified remedies, including, among other things, vacating the conviction or sentence and ordering new proceedings.

This bill ... additionally authorize[s] that petition to be filed for cases in which a judgment was entered as final prior to January 1, 2021, as specified,

and in cases in which a juvenile disposition resulted in a commitment to the Division of Juvenile Justice, as specified.

The bill ..., [for motions] ... based on the conduct or statements by the judge, require[s] the judge to disqualify themselves from those proceedings.<sup>3</sup>

Existing law allows a defendant to file a motion requesting disclosure of all evidence related to a potential [RJA] violation... and requires the court to order the records to be released upon a showing of good cause. If the records are not privileged, existing law allows the court to permit the prosecution to redact information prior to disclosure.

This bill ... require[s] the court, upon a showing of good cause, to order disclosure unless a statutory privilege or constitutional privacy right cannot be adequately protected by redaction or a protective order.<sup>4</sup>

Under existing law, a conviction or sentence [violates the RJA] if [Def] proves, among other things, that [Def] was charged or convicted of a more serious offense than [Defs] of other races, ethnicities, or national origins, or received a longer or more severe sentence, and the evidence establishes that [P]

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<sup>3</sup> PC 745, subd. (b): “[Def] may file a motion in the trial court or, if judgment has been imposed, may file a petition for writ of habeas corpus or a motion under [PC] 1473.7 in a court of competent jurisdiction, alleging a violation of [the RJA]. *If the motion is based in whole or in part on conduct or statements by the judge, the judge shall disqualify themselves from any further proceedings under this section.*”

<sup>4</sup> This portion of PC 745, subd. (d), shows this amendment: **Upon a showing of good cause, the court shall order the records to be released. Upon a showing of good cause, and ~~if the records are not privileged, the ... to protect a privacy right or privilege, the~~ court may permit the prosecution to redact information prior to ~~disclosure.~~ *disclosure or may subject disclosure to a protective order. If a statutory privilege or constitutional privacy right cannot be adequately protected by redaction or a protective order, the court shall not order the release of the records.***

more frequently sought or obtained convictions for more serious offenses against people who share [Def’s] race, ethnicity, or national origin, as specified, or if a longer or more severe sentence was more frequently imposed on [Def’s] of a particular race, ethnicity, or national origin, as specified.

Existing law requires this determination to be made pursuant to statistical evidence or aggregate data, as specified.

This bill ... allow[s] that evidence to include nonstatistical evidence ....

The bill ... require[s] the court to consider whether systemic and institutional racial bias, racial profiling, and historical patterns of racially biased policing and prosecution may have contributed to, or caused differences observed in, the data or impacted the availability of data overall.

### **Discussion by GB:**

Under the amendment to PC 745, subd. (b), when an RJA motion is based in whole or in part on conduct or statements by the judge, the judge “shall disqualify themselves from any further proceedings under this section.” The amendment, however, does not contain a procedure for that disqualification and its aftermath, nor does it say whether the judge returns to the case if the RJA motion is denied. (Because the amendment says that upon the motion, the judge *shall disqualify themselves from any further proceedings under this section*, it seems possible that, if the motion is denied, the proceedings “under this section” are concluded, and the original judge resumes presiding over the trial.

As originally enacted, PC 745, subd. (j) said, in its entirety, “**This section applies only prospectively in cases in which judgment has not been entered prior to [the effective date of the RJA, namely,] January 1, 2021.**”

This current bill begins with uncodified Section 1, saying, “*It is the intent of the Legislature to apply the California Racial Justice Act of 2020 retroactively, to ensure equal access to justice for all.*”

**From PC 745, subd. (j), *as amended*:**

*(j) This section applies as follows.”*







(a) If a [Def] is ~~sentenced pursuant to paragraph [PC 1170, subd. (h)(5) (5) of subdivision (h) of Section 1170, convicted of a felony,~~ the court, in its discretion and in the interests of justice, may order the following relief, [subject] to ... subd[.] (b):

(1) The court may permit [Def.] to withdraw ~~his or her~~ *their* plea of guilty or ... nolo contendere and [plead] not guilty, or [the court may] set aside [a] verdict of guilty, and, ... ~~...~~ dismiss the accusations or information ... and ~~he or she~~ *[Def]* shall ... be released from all penalties and disabilities ... from the offense ... except as provided in [VC] 13555.

(2) Th[is] relief ... may be granted only after the lapse of one year following [Def's] completion of the sentence, if the sentence was imposed pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170 [sic], or after the lapse of two years following [Def's] completion of the sentence, if the sentence was imposed pursuant to subparagraph (A) of paragraph (5) of subdivision (h) of Section ~~1170. 1170~~ *or if [Def] was sentenced to the state prison.*

(3) [This] relief ... may be granted only if [Def] is not *on parole or* under [mandatory] supervision pursuant to [PC 1170, subd. (h)(5)(B)], and is not serving a sentence for, on probation for, or charged with ... any offense.

(4) ...           (5) ....

*(6) [This relief cannot be granted to a Def. who went to state prison on a felony that requires registration as a sex offender under PC 290].*

(b) [This relief] is subject to ... the following conditions:

(1) In any subsequent prosecution ... the prior conviction may be pleaded and proved [just] as if [it] had not been dismissed.

(2) [Def. must] disclose the conviction in response to any direct question ... in any questionnaire or application for public office, for licensure by any state or local ~~agency, or~~ *agency or by a federally recognized tribe,* or for contracting with the California State Lottery Commission.

(3) Dismissal ... does not permit a person to own, possess, or have in ~~his or her~~ *their* custody or control any firearm or prevent ~~his or her~~ *their* conviction under [PC 29800 et seq.].

(4) Dismissal ... does not permit a person prohibited from holding public office as a result of that conviction to hold public office.

(c) This ... applies to any [conviction listed, regardless of when it occurred].

(d) [Costs may be assessed as specified, as per PC 987.8].

(e)(1) [P is entitled to at least 15 days’ notice]. (2) ....

(f) If, [after getting notice] [P] fails to appear and object to ... dismissal, [P] ~~may~~ *shall* not move to set aside or ... appeal the grant of that petition.

*(g) [This] ... does not release [Def] from ... any unexpired criminal protective orders... issued ... pursuant to [PC 136.2, subd. (j)(1)] or [PC 368, subd. (l)] or [PC 646.9, subd. (k) ] ....*

*(h) [This] ... does not affect the authority to receive, or take adverse action based on, criminal history ..., including ... receiv[ing] certified court records ... pursuant to [four listed HS sections on residential care facilities] ..., or pursuant to any statutory or regulatory provisions [incorporating those] criteria .... [This] ... does not make eligible a person who is ... ineligible to provide ... in-home supportive services pursuant to [specified WI sections].*

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***Automatic Relief from Certain Arrest Records and Certain Conviction Records; Some Delay Again.***

[SB 731 \(Stats. 2022, Ch. 814\)](#)

Amends PC 851.3 and 1203.425

Existing law [and subject to a legislative appropriation of funds, which may not have been made yet] requires [DOJ], [monthly], to review the records in the statewide criminal justice databases and identify persons who are eligible for records of arrest relief without requiring the filing of a petition or motion.... [A] person [is] eligible for [that] if they were arrested on or after January 1, 1973, ... the arrest was for a misdemeanor[,] and the charge was dismissed or criminal proceedings have not [started] within one year after the arrest, or the arrest was for a felony punishable in the county jail and criminal proceedings have not been [started] within 3 years after the date of the arrest.

This bill ... commencing July 1, 2023, generally [now] make[s] this arrest record relief available to a person who has been arrested for a felony, including a felony punishable in the state prison, as specified. [Still, implementation is subject to an appropriation.]

Existing law, [starting] January 1, 2022 [subject to an appropriation which apparently has not yet been made], requires [DOJ], [monthly], to review the records in the statewide criminal justice databases and identify persons who are eligible for automatic conviction record relief. ... [A] person is eligible for [this] if, on or after January 1, 1973, they were sentenced to probation, and completed it without revocation, or if they were convicted of an infraction or a misdemeanor, and other criteria are met, as specified.

The bill, starting July 1, 2023, [will] ... make this conviction record relief available for [Def] convicted, on or after January 1, 2005, of a felony for which they did not complete probation without revocation if [Def] [has] completed all terms of incarceration, probation, mandatory supervision, postrelease community supervision, and parole, and ... 4 years has elapsed during which [Def] was not convicted of a new felony offense, except as specified....

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**Relief from Conviction of the Now-Repealed Loitering with Intent to Commit Prostitution.**

[SB 357 \(Stats. 2022, Ch. 86\)](#)

Adds PC 653.29.

See also: [Crimes](#) for the repeal of PC 653.20 and 652.22.

See also [Evidence](#) for conforming amendment to EC 782.1

**From the Legislative Counsel's Digest**

.... This bill ... authorize[s] a person convicted of ... [the now repealed] loitering with the intent to commit prostitution [PC 653.22] to petition the court for... dismissal and sealing of their case, and resentencing if applicable.

**From added PC 653.29:**

*(a)(1) A person ... serving a sentence for a conviction of ... former [PC] 653.22, whether by trial or by open or negotiated plea, may petition for a recall or dismissal of sentence ..., and sealing....*

*(2) ... [T]he court shall presume the petitioner satisfies the criteria ... unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the[m]. If the petitioner satisfies the[m] ..., the court shall grant the petition ... because [the conviction] is legally invalid, and shall seal the conviction....*

*(b)(1) A person who has completed their sentence for ...violating [PC] 653.22, whether by trial or open or negotiated plea, may file an application ... to have the conviction dismissed and sealed because the prior conviction is now legally invalid.*

*(2) The court shall presume the petitioner satisfies the criteria ... unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the[m]. Once the applicant satisfies the criteria ..., the court shall seal the conviction as legally invalid.*

*(c) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision (b).*

*(d) .... (e) .... (f) The Judicial Council shall promulgate ... all necessary forms [to file for and receive this relief].*



*Courts and DOJ, Required to Complete the Job of Dismissing or Re-designating Old Cannabis Convictions.*

[AB 1706 \(Stats. 2022, Ch. 387\)](#)

Amends HS 11361.9

From the Senate Committee on Public Safety report for June 21, 2022:

.... In 2018, ... California passed ... [AB 1793, Stats. 2018, Ch. 993]] that provides for automatic sealing of cannabis criminal records for old offenses that are no longer illegal....

.... [T]here is wide variance in county compliance with the law, resulting in many Californians not receiving the relief for which they are eligible. ([DOJ] has yet to seal approximately 10,000 eligible cases).

AB 1706 establishes a hard deadline by which local courts ... must process these cases.... The bill ...require[s] the Judicial Council to monitor the process and produce joint monthly reports ... to ensure compliance ....

AB 1706 require[s] the DOJ to conduct a public awareness campaign so that individuals ... become aware of updates to their criminal history.

Lastly, AB 1706 directs the Attorney General to declare records as resentenced, sealed and dismissed in the absence of local action

[\*From HS 11361.9 as amended\*](#)

(d)(1) If the prosecution ~~does~~ *did* not challenge the recall or dismissal of sentence, dismissal and sealing, or redesignation ~~by~~ *of a conviction on or before* July 1, 2020, the ~~---~~ *conviction shall be deemed unchallenged, recalled, dismissed, and redesignated, as applicable, and the court shall issue an order, [doing so] in each case ... no later than March 1, 2023.*

*(2) On or before March 1, 2023, the court shall...report all convictions that have been recalled, dismissed, redesignated, or sealed to [DOJ] ....*

~~(e)~~*(3) --- On or before July 1, 2023, [DOJ] shall ensure that all ... records in the state summary criminal history information database --- ... have been updated and... that inaccurate ... criminal history is not disseminated...*

~~(f)~~*(e) The ---[DOJ] shall post general information on its ---internet website about [this process].... [DOJ] shall conduct an awareness campaign about the recall or dismissal of sentences, dismissal and sealing, or redesignation ..., so that individuals ... are informed of [how]..., to request their criminal history information to verify the updates or how to contact the courts, prosecution, or public defenders'... to assist in verifying the updates.... [DOJ] may provide a one-time fee waiver ... for ... responding to the request.*

*(f) A conviction, arrest, or other proceeding that has been ordered sealed pursuant to Section 11361.8, is deemed never to have occurred, and the person may reply accordingly to any inquiry about the events.*

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**DISCOVERY**

Cf. California Public Records Act.

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## DIVERSION; DEFERRED ENTRY OF JUDGMENT

### *Mental Health Diversion: Eligibility Criteria Changed.*

[SB 1223 \(Stats. 2022, Ch. 735\)](#) Amends PC 1001.36, 1370, and 1370.1

Also [SB 184 \(Stats 222, Ch. 47\)](#) Amends PC 1001.36. For many other aspects of SB 184, see “Mental Health,” at “Incompetency to Stand Trial”

### From the Legislative Counsel’s Digest for SB 1223:

This bill ... change[s] the eligibility criteria [for Mental Health Diversion] to include a diagnosis of a mental disorder instead of the court finding ... [the] mental disorder[,] and ... require[s] that the diagnosis or treatment for [that] be within the last 5 years.

.... The bill ... require[s] the court ... to find that [Def’s] mental disorder was a significant factor in the commission of [the] offense unless there is clear and convincing evidence that it was not a motivating factor, causal factor, or contributing factor ....

The bill ..., for ... a misdemeanor, limit[s] the...diversion to one year....

From PC 1001.36 *as amended*.

(a) On an accusatory pleading alleging [an eligible offense] ~~offense, ...,~~ the court may, ... after considering the positions of [Def and P], grant pretrial diversion to [Def] ... if [Def] ~~meets ... the requirements specified in paragraph (1) of subdivision (b).~~ *satisfies the eligibility requirements ... and the court [finds Def] is suitable ... under ... subd[.] (c).*

(b)~~(1)~~*A Pretrial diversion may be granted [Def] is eligible ...* if ~~all both~~ of the following ... are met:

~~(A)(1)~~ The ~~court is satisfied that the defendant suffers from~~ *[Def] has been diagnosed with* a mental disorder as identified in the ...Diagnostic and Statistical Manual of Mental Disorders, including, but not limited to [a list of disorders (unchanged by this amendment)], but excluding [a list of disorders (unchanged by this amendment)]. Evidence of [Def's] mental disorder shall be provided by [Def.] and shall include a ~~recent diagnosis or treatment for a diagnosed mental disorder within the last five years~~ by a qualified mental health expert....

~~(B)(2)~~ The ~~court is satisfied~~ *[Def's] mental disorder was a significant factor in the commission of the charged offense. If [Def.] has been diagnosed with a mental disorder, the court shall find* that [Def's] mental disorder was a significant factor in the commission of the ~~charged offense. A court may conclude that a defendant's mental disorder was a significant factor in the commission of the charged offense if, after reviewing~~ *offense unless there is clear and convincing evidence that it was not a motivating factor, causal factor, or contributing factor to [Def's] involvement in the alleged offense. A court may consider* any relevant and credible evidence, including, but not limited to [a wide variety of documents and evidence are listed.] ~~---~~....

*(c) ... [Def] is suitable for pretrial diversion if ...:*

~~(C)~~ (1) In the opinion of [the] expert, [Def's] symptoms of the mental disorder *causing, contributing to, or* motivating the criminal behavior would respond to mental health treatment.

~~(D)~~ (2) [Def] consents to diversion and waives the ... right to a speedy trial, unless [Def is getting diversion in lieu of commitment as mentally incompetent to stand trial [IST] pursuant to PC 1370 subd. (a)(1)(B)(iv) and cannot waive the speedy trial right].



~~(E)~~ (3) [Def.] agrees to comply with treatment as a condition of diversion, unless [Def getting diversion in lieu of commitment as IST and cannot agree to comply with treatment].

~~(F)~~(4) The ~~court is satisfied that the~~ [Def] will not pose an unreasonable [safety risk], as defined.... The court may consider the opinions of [P], the defense, or [the] expert, [Def's] *treatment plan, [Def's]* violence and criminal history, the ... charged offense, and any other factors ... deem[ed] appropriate.

(2) (d) [Def] may not be [diverted], for the following ... offenses: [The list of 8 offenses is not changed by this amendment.]

(3) (e) At any stage ..., the court may require [Def] to ... show[ ] that [Def] will meet the ... [eligibility] requirements ... and that [Def] and the offense are suitable for diversion....

(f) ... [T]he following terms have the following meanings:

~~(e)~~ (1) ... *“Pretrial diversion”* means the postponement of prosecution ..., at any point ..., [for Def] to undergo mental health treatment, subject to all of the following:

~~(4)~~(A) (A) (i) [and (ii)] [These first two criteria, (i) requiring that the program meet Def's needs, and (ii) stating the type of program involved, are re-lettered but are otherwise unchanged.]

*(iii) If the court refers [Def.] to a county mental health agency ... [which] determines that it is unable to provide services to [Def], the court shall accept [the agency's] written declaration .... That declaration ... [is] not ... evidence that [Def] is unqualified or unsuitable for diversion ....*

~~(2)~~ **(B)** The ... program ... shall provide regular reports to the court, the defense, and the prosecutor ....

~~(3)~~ **(C)** The [diversion] period ~~shall be no longer than two years.~~ *Is[:]*

*(i) If [the charge is] a felony, ... no longer than two years.*

*(ii) If [the charge is] a misdemeanor, ... no longer than one year.*

~~(4)~~ **(D)** Upon request, the court shall ... determine [if] restitution ... is owed.... [This para[.] is renumbered, but not changed].

**(2)** *“Qualified mental health expert” [defined]. ¶....¶*

SB 184’s amendment to PC 1001.36 added subd. (b)(1) **(E)**, the following additional condition of eligibility:

**(E)** The defendant agrees to comply with treatment as a condition of ~~diversion.~~ *diversion, unless the defendant has been found to be an appropriate candidate for diversion in lieu of commitment for restoration of competency treatment pursuant to clause (iv) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 1370 and, as a result of the defendant’s mental incompetence, cannot agree to comply with treatment.*

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*Theft, and Repeat Theft, Crimes: Diversion or Deferred Entry of Judgment Program....*

[AB 2294 \(Stats. 2022, Ch. 856\)](#)

Adds, Ch. 2.9D (§§ 1001.81 et seq.) to PC, Part 2, Title 6; and adds PC 1210.2. Urgency effective Sept. 30, 2022, and sunsets on January 1, 2026.)

For other aspects of AB 2294, see “Arrest and Detention:” “New Reasons for Non-Release...”; and “Criminal Procedure:” Bench Warrant for [FTA]....”

## From the Legislative Counsel's Digest

.... This [bill] ... authorize[s] a city or county [P] or county probation department to create a diversion or deferred entry of judgment program for persons who commit a theft offense or repeat theft offenses, as specified....

### *From New PC 1001.81*

*(a) The city or county [P] or ... probation ... may create a diversion or deferred entry of judgment [DEJ] program ... for persons who commit a theft ... or repeat theft[s].... The program may be conducted by [P] or ... probation ....*

*(b) Except as provided in subd[.] (e), this chapter does not limit the power of [P] to prosecute theft or repeat theft.*

*(c) If a county creates a diversion or [DEJ] program ..., on receipt of a case or at arraignment, [P] shall either refer the case to ... probation ... to assess [the case for] ... program placement or, if [P's] office operates the program, determine if the case is ... appropriate [for] the program.... [The] probation department or [P] shall consider, [at least], the following ...:*

*(1) Any prefiling ... report ... by ... probation ... or [a] nonprofit ... agency operating the program that evaluates [Def's] risk and needs and the appropriateness of program placement.*

*(2) If [Def] demonstrates a willingness to engage in community service, restitution, or other mechanisms to repair the harm caused ... and address the ... drivers of the criminal activity.*

*(3) [Whether there are] underlying substance abuse or mental health needs or other drivers of criminal activity that can be addressed through the ... program.*

*(4) If [Def] has a violent or serious prior... record or has previously been referred to [, but failed,] a diversion program ....*

*(5) Any ... information concerning the [program's] efficacy ... in reducing the likelihood of [Def's] committing future offenses.*

*(d) On referral ... to the program, a notice shall be provided ... to [Def] with ... the following information:*

*(1) The date by which [Def] must contact the ... program ....*

*(2) A statement of the penalty for the offense ... charged.*

*(e) [P] may enter into a written agreement with [Def] to refrain from, or defer, prosecution ... on the following conditions:*

*(1) Completion of the ... requirements such as community service[,] or courses ... required by [P].*

*(2) Making ... restitution or an appropriate substitute for [that] to the establishment or person from which property was stolen at [its] face value ..., if required ....*



**DOMESTIC VIOLENCE**

**Medical Evidentiary Exams: Free of Charge and Enhanced**

[AB 2185 \(Stats. 2022, Ch. 557\)](#)

Amends PC 11161.2

**From the Legislative Counsel's Digest**

Existing law requires the Office of Emergency Services to establish medical forensic forms, instructions, and examination protocols for [Vs] of domestic violence [DV] and elder and dependent adult abuse and neglect ....

This bill ... require[s] that [Vs] of [DV] have access to medical evidentiary examinations, free of charge, by Local Sexual Assault Response Teams (SART), Sexual Assault Forensic Examiner (SAFE) teams, or other qualified medical evidentiary examiners. This bill ... require[s] the forms to include information regarding history and evidence of strangulation.

....

This bill, instead, ... require[s] a ... facility where medical evidentiary examinations are conducted to ... implement written policies and procedures for maintaining the confidentiality of medical ... examination reports.

The bill ... also require[s] a ... medical facility, on or before July 1, 2023, to implement a system to facilitate the release of those reports....

This bill ... prohibit[s] the costs incurred for the medical evidentiary portion of the examination from being charged directly or indirectly to [V].

The bill ... also permit[s] [Vs] to have a qualified social worker, victim advocate, or a support person of [V's] choosing to be present during the examination, when available....

**From PC 11161.2 as amended.**

(a) The Legislature finds ....that ... **Enhancing** *Medical evidentiary examinations, offered to [Vs] free of charge, and enhanced* examination procedures, documentation, and evidence collection will improve **investigation** *patient outcomes, investigation,* and prosecution efforts.

¶...¶

*(b)(1)(I) When strangulation is suspected, documentation may be included on a supplemental strangulation form as part of the ... exam.*

*(2) The forms shall be made accessible for use in an electronic format....*

*(c) When strangulation is suspected, additional diagnostic testing may be necessary to prevent adverse health outcomes or morbidity.*

*(d) [Vs] receiving forensic medical exams for [DV] have the right to a qualified social worker, victim advocate, or a support person of the victim’s choosing to be present during the examination, when available.*

¶...¶

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**EVIDENCE**

See Crimes, “Loitering with intent to commit prostitution, repealed” re: EC 782.1, which is amended to reflect that repeal.

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**EC 782.1 Amended to Reflect the Repeal of PC 653.22, Loitering with Intent to Commit Prostitution.**

[SB 357 \(Stats. 2022, Ch. 86.\)](#) Amends EC 782.1

For the repeal itself of PC 653.22, see “Crimes,” above.

**From EC 782.1 *as amended*.**

The possession of a condom is not admissible as evidence in the prosecution of a violation of [PC] 372 of, *or* [PC 647 subs. (a) or (b)], or *former* Section 653.22 of, the Penal Code, if the offense is related to prostitution.

////////////////////////////////////

**Court Hearing Required to Disclose Immigration Status in Open Court (with Exceptions): Re-enacts Prior Law.**

[SB 836 \(Stats.. 2022, Ch. 168\)](#) Reenacts EC 351.4

Urgency, effective August 22, 2022.

EC 351.4, first enacted by SB 785 (Stats.. 2018, Ch. 12), prohibited disclosure in open court of a person’s immigration status, without a court hearing (with exceptions)... [P]ursuant to [its] sunset clause[ ], [it was] automatically repealed on January 1, 2022.

This bill reenacts [EC 351.4], identically.

Uncodified section 4 says *“This act does not alter a prosecutor’s existing obligation to disclose exculpatory evidence.”*

**Re-enacted EC 351.4:**

*(a) In a criminal action, evidence of a person’s immigration status shall not be disclosed in open court by a party or their attorney unless the judge ... first determines that the evidence is admissible in an in-camera hearing requested by the party seeking disclosure ....*

*(b) This section does not ....:*

*(1) Apply to cases in which a person’s immigration status is necessary to prove an element of an offense or an affirmative defense.*

*(2) Limit discovery in a criminal action.*

*(3) Prohibit a person or their attorney from voluntarily revealing the person’s immigration status to the court.*



**Limits On Admissibility of Creative Expressions**

AB 2799 (Stats. 2022, Ch. 973)

Adds EC 352.2

**From uncodified Section 1**

*(a) Existing precedent allows artists' creative expression to be admitted as evidence ... without a ... robust inquiry into whether [this] introduces bias or prejudice into the proceedings.... [Citing 3 research articles].*

*(b)... [T]his Legislature [intends] to provide a framework by which courts can ensure that the use of an accused [Def's] creative expression will not be used to introduce stereotypes or activate bias against [Def], nor as character or propensity evidence; and to recognize that the use of rap lyrics and other creative expression as circumstantial evidence of motive or intent is not a sufficient justification to overcome substantial evidence that the introduction of rap lyrics creates a substantial risk of unfair prejudice.*

*From Added EC 352.2:*

*(a) In any criminal proceeding where a party seeks to admit as evidence a form of creative expression, the court, while balancing the probative value of that evidence against the substantial danger of undue prejudice under [EC] 352, shall consider, [inter alia], that:*

*(1) the probative value of [this] for its literal truth or as a truthful narrative is minimal unless [it] is created near in time to the charged crime ..., bears a sufficient level of similarity to the charged crime ..., or includes factual detail not ... publicly available; and*

*(2) undue prejudice includes, [inter alia], the possibility that the trier of fact will ... treat the expression as evidence of the defendant's propensity for violence or general criminal disposition [and] the possibility that the evidence will ... inject racial bias into the proceedings.*

*(b) If proffered and relevant ..., the court shall consider....:*



*(1) Credible testimony [about] creative expression as to the social or cultural context, rules, conventions, and ... techniques....*

*(2) Experimental or social science research [showing] that the introduction of a particular type of expression... introduces racial bias....*

*(3) Evidence to rebut such research or testimony.*

*(c) ... “[C]reative expression” [is] the expression or application of creativity or imagination in the production or arrangement of forms, sounds, words, movements, or symbols, including, but not limited to, music, dance, performance art, visual art, poetry, literature, film, and other ... objects or media.*

*(d) The question of the admissibility of a ... creative expression shall be heard in limine and determined by the court, outside the presence ... of the jury.... The court shall state on the record its ruling and its reasons therefor.*



**FIREARMS**

See “Sentences” for AB 2239.



**Unserialized Firearms (Ghost Guns) Heavily Regulated.**

[AB 1621 \(Stats. 2022, Ch. 76\)](#)

Amends, or repeals, or adds (or combinations of these), dozens of sections in Penal Code, Part 6, “Control of Deadly Weapons.”

Urgency, effective June 30, 2022, but some sections specify Jan. 1, 2024.

**From the Legislative Counsel’s Digest**

(1) .... This bill ... redefine[s] a firearm precursor part as any forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled or converted to be used as the frame or receiver of a functional firearm, or that is marketed or sold ... to become or be used as the frame or receiver of a functional firearm once completed, assembled or converted.

This bill ... extend[s] the definition of a firearm to include a firearm precursor part for ... most criminal and regulatory provisions [on] possession, sale, and transfer of a firearm, including [those] which [did not, before this bill] apply to a frame or receiver ....

The bill ... prohibit[s] the sale, transfer, or possession of an unserialized firearm precursor part, except as specified.

The bill ... create[s] a process [for] a person [to] apply to [DOJ] for a determination that a particular item or kit is or is not a firearm precursor part.

(2) .... This bill ... require[s] any person [with] an unserialized firearm to apply to [DOJ] for a unique mark of identification and to affix [it] to the firearm before ]1/1/24[.

The bill ..., [starting] January 1, 2024, ... prohibit[s] the possession or transfer of a firearm without a serial number or [identification] mark. [Violation is a misdemeanor.]

The bill ... authorize[s] a new resident ... to, within 60 days after arrival in the state, request a[n] identification for any unserialized [gun] that [it] is valid to possess ....

The bill ... prohibit[s] the possession, sale, transfer, or use of specified firearms manufacturing equipment, with exceptions for specified entities, including the [U.S.] Armed Forces ..., the National Guard, and law enforcement....

(3) This bill ..., [starting] January 1, 2024, prohibits a person from purchasing more than one completed frame[ ] or receiver[ ] and firearm precursor part[s] [as specified] in a 30-day period.

(4) .... This bill [prohibits gun possession (ownership (etc.))] for 10 years [after conviction of] a misdemeanor violation of manufacturing an unserialized firearm or aiding or abetting the manufacture of a firearm by a prohibited person, which occurs on or after January 1, 2023. [sic]....

(5) ....                   (6) This bill ... authorize[s] [DOJ], if any provisions of this bill are held invalid, to enact regulations in furtherance of the bill['s] purpose, including ... requiring a person to obtain a license to purchase or receive a firearm precursor part....

[This bill makes uncodified findings and declarations.]

Many sections of this new law are not summarized in the Legislative Counsel's Digest. One of them is new PC 29815 relating to the use, sale, offer to sell, or transfer of computer numerical control (CNC) milling machines.



**3D Printing of Guns Requires a License, Other License Provisions**

[AB 2156 \(Stats. 2022, Ch. 142\)](#)

Amends PC 29010

**From the Legislative Counsel's Digest**

... [F]ederal law requires a manufacturer of firearms to be licensed by the federal government. Existing [California] law requires any federally licensed ... manufacturer [producing] 50 or more firearms in the state in a calendar year to also be licensed ... by [Calif.]. [Violation is a misdemeanor.]

This bill ... prohibit[s] any person, regardless of federal licensure, from manufacturing firearms in the state without being licensed by the state.

The ... manufacturing threshold requiring state licensure [is decreased down] to 4 or more firearms in a calendar year.

The bill ... prohibit[s] any person, unless licensed as a firearm manufacturer, from [making] any firearm or precursor part by... a 3D printer....

From PC 29010 *as amended*. (Paragraph break added)

(a) A person, firm, or corporation ~~licensed to manufacture firearms pursuant to [Federal law]~~ shall not manufacture *more than three* firearms within this state *in a calendar year* unless that person, firm, or corporation is licensed pursuant to Chapter 2 (commencing with [PC] 29030).

(b) ~~Subdivision (a) does not apply to a person licensed to manufacture firearms~~ *A person, firm, or corporation shall not use a [3D] printer to manufacture any firearm, including a frame or receiver, or any ... precursor part, unless that person, [or, etc.] is licensed pursuant to [PC 29030 [et seq.].... “[T]hree-dimensional printer” [is defined].*

(c).... (d) A violation of this section is a misdemeanor.



**Gun Shows Regulated Concerning Ghost Guns**

[AB 2552 \(Stats. 2022, Ch. 696\)](#)

Amends PC 27240, 27245, 27305, 27310, and 27350

**From the Legislative Counsel’s Digest** (Editing added)

Existing law ... regulates gun shows ... and requires [specified personnel] to possess a ... certificate of eligibility from [DOJ]. Existing law requires ... specified notices at each public entrance ... and a specified notice in the parking lot. A violation of this ... or other requirements is ... a misdemeanor and makes a person ineligible for a certificate of eligibility for ... one year.

This bill ... require[s] additional notices .... at each public entrance ....

This bill ... double[s] the maximum fines for a violation of this and other requirements and make the person ineligible for a certificate of eligibility for a period of 2 years....

Existing law requires a vendor at a gun show or event to make certain certifications, in writing....

This bill ... additionally require[s] a vendor to certify that they will not display, possess, or offer for sale any unserialized frame or receiver, including an unfinished frame or receiver or any handgun conversion kits, as specified.

Under existing law, a violation of this and other requirements is punishable as an infraction or misdemeanor, as specified.

This bill would add a fine and a suspension from participating as a vendor for a period of one year to the punishment for these violations.

....

Existing law ... authorizes [DOJ] to inspect [specified persons and businesses] participating in a gun show ... to ensure [compliance] with [specified] applicable state and federal laws.

This bill ... authorize[s] [DOJ] to also inspect any firearm precursor part vendors participating in a gun show ....

The bill ..., commencing July 1, 2023, require[s] [DOJ] to conduct enforcement and inspections at [at least] one-half of all gun shows ... to ensure compliance with gun show ... laws.

The bill ... also require[s] [DOJ] to post certain violations on their internet website ....

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**FORMS**

Only new (not revised) statewide (not local) forms, promulgated by the Judicial Council through Dec. 6, 2022 (except as below), are included.

//

**Expected New Forms.**

At this writing, December 6, 2022, there are no new forms for 2023 at the “Forms & Rules” tab at the “California Courts” website homepage.

<https://www.courts.ca.gov/home.htm> .

At least four new forms are expected quickly, however, because revised California Rules of Court, Rule 5.625 (“Orders after filing of petition under section 601 or 602”), and revised Rule 5.630 (“Restraining Orders”), both effective on January 1, 2023, refer to four forms that are not, at this writing, available on the California Courts web site,

<https://www.courts.ca.gov/forms.htm> .

See Rule 5.625(a) (rev. eff. 11/2023), referring to “Notice of Court Hearing and Temporary Restraining Order Against a Child” (form JV-260); and “Juvenile Restraining Order After Hearing – Against a Child” (form JV-265).

And see Rule 5.630(c)(3) (rev. 1/1/2023), referring to “Request for Juvenile Restraining Order Against a Child” (form JV-258).

And see Rule 5.630(d)(4), referring to “Order on Request to Reschedule Restraining 24 Order Hearing” (form JV-253).



**HABEAS CORPUS**

See: Recall and Resentence.



**Petition Allowed When Significant Dispute Develops About Expert Evidence Used to Convict.**

[SB 467 \(Stats. 2022, Ch. 467\)](#)

Amends PC 1473.

**From the Legislative Counsel’s Digest**

[Before this bill, one ground for which] a habeas corpus [action can] be prosecuted [is that] false evidence ... was introduced at trial. [This includes]

the opinions of experts that have been repudiated by the expert or that have been undermined by later scientific research or technological advances.

This bill ... additionally allow[s] a person to prosecute a writ of habeas corpus if a significant dispute has emerged or further developed ... regarding expert medical, scientific, or forensic testimony that was introduced at trial and contributed to the conviction, such that it would have more likely than not changed the outcome at trial, as specified.

The bill ... also expand[s] the definition of false evidence to include the opinions of experts that are undermined by the state of scientific knowledge.

**From PC 1473, *as amended*.**

(a) A person unlawfully imprisoned or restrained of their liberty, under any pretense, may prosecute a writ of habeas corpus to inquire into the cause of the imprisonment or restraint.

(b) A writ of habeas corpus may be prosecuted for, but not limited to, the following reasons:

(1) False evidence ... was introduced against Def] at [the] hearing or trial....

(2) False physical evidence, believed by a person to be factual, probative, or material on the issue of guilt, which was known by the person at the time of entering a plea of guilty, which was a material factor directly related to the plea of guilty by the person. [sic.]

(3)(A) New evidence [as defined] exists that ... would have more likely than not changed the outcome at trial. (B) ....

*(4) A significant dispute has emerged or further developed ... regarding expert medical, scientific, or forensic testimony that was introduced at trial ..., such that it would have more likely than not changed the outcome ....*

*(A)... [T]he expert ... testimony includes the expert's conclusion or the scientific, forensic, or medical facts upon which their opinion is based.*

*(B)...[T]he significant dispute may be as to the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which [the] expert based their testimony.*

*(C) ... [A] significant dispute can be established by credible expert testimony or declaration, or by peer reviewed literature showing that experts in the relevant ... community, substantial in number or expertise, have concluded that developments ... undermine the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which [the] expert based their testimony.*

*(D) In assessing whether a dispute is significant, the court shall give great weight to evidence that a consensus has developed in the relevant ... community undermining the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which [the] expert based their testimony or that there is a lack of consensus as to the reliability or validity of the diagnosis, technique, methods, theories, research, or studies upon which [the] expert based their testimony.*

*(E) The significant dispute must have emerged or further developed within the relevant ... community, which ... shall not be limited to practitioners or proponents of a particular scientific or technical field ....*

*(F) If the petitioner makes a prima facie showing that they are entitled to relief, the court shall issue an order to show cause why relief shall not be granted. To obtain relief, all the elements of this paragraph must be established by a preponderance of the evidence....*





... [T]o address these issues, AB 2195 ... create[s] an alternate plea for those charged with drug offenses. It gives the prosecution the discretion of offering an alternate public nuisance plea, on a case-by-case basis, as a substitute for a drug charge including possession and drug sales. Public nuisance would carry the same criminal penalty but without triggering the collateral consequences for both immigrants and non-citizens....

**From Added PC 372.5:**

[Note: the list of drug charges in subdivision (a), for infractions, and subdivision (b), for misdemeanors, is:

*“unlawfully cultivating, manufacturing, transporting, giving away or selling a drug, or offering to transport, give away, or sell a drug, or unlawful use of a drug or unlawful possession or use of a drug or ...paraphernalia.”*

[The list of drug charges in subdivision (c), for felonies, is *all of those offenses*, except paraphernalia, and unlawful drug use.]

*(a) Notwithstanding [PC] 372 [punishment for public nuisance], if a [Def.] is sentenced for a violation of Section 370 [defining a criminal public nuisance] based on a disposition negotiated between the defendant and the prosecution, or pursuant to an indicated sentence of the court, a term of which [is] the dismissal of one or more infraction charges that allege [any of the drug offenses listed in the “Note,” above for subd (a)] public nuisance is an infraction punishable by a fine not to exceed ... \$250....*

*(b) Notwithstanding Section 372, if a [Def.] is sentenced for a violation of [PC] 370 based on a disposition negotiated between [Def] and [P], a term of which [is] the dismissal of one or more misdemeanor charges that allege*

*[any of the drug offenses listed in the “Note” above for subd. (b)] public nuisance is punishable by a fine of [up to] \$1,000 ..., or ... county jail for [up to] one year, or by both ..., or as an infraction punishable by... [up to] \$250....*

*(c) Notwithstanding [PC] 372, if [Def.] is sentenced for a violation of [PC] 370 based on a disposition negotiated between [Def] and [P], a term of which [is] the dismissal of one or more felony charges that allege [any of the drug offenses listed in the “Note” above for subd. (c)], public nuisance is punishable pursuant to [PC 1170, subd. (h)] for ... 16 months, or two or three years, or by ... county jail for [up to] one year.*

[All three subds. permit this to be by plea bargain between Def and P; but only subd. (a) (infraction) also permits this by the court’s indicated sentence.]



**JAIL**

See Prisons and Jails



**JUVENILE JUSTICE**

See Rules of Court for rules about appeals from orders transferring Minors from Juvenile Court to a Court of Criminal Jurisdiction.

See Early Notices, for interrogation of juveniles effective July 1, 2024.



**Transfer to Adult Court Requires Clear and Convincing Evidence that Minor is Not Amenable to Rehabilitation in Juvenile Court**

[AB 2361 \(Stats. 2022, Ch. 330\)](#)

Amends WI 707

**From the Legislative Counsel’s Digest’s About the Law Before this Bill.**

[Prop. 57, from 2016] ... authorizes [P] to make a motion to transfer [M] from juvenile court to [adult court, when M] is alleged to have committed a felony when ... 16 years ... or older, or [when] a specified serious offense is alleged to have been committed by [M] when ... 14 or 15 years of age, but [M] was not apprehended prior to the end of juvenile court jurisdiction....

**From California Rules of Court 5.770(a), at the time this bill passed:**

“In a transfer of jurisdiction hearing under [WI] 707, the burden of proving that there should be a transfer ... is on the petitioner, by a preponderance of the evidence.”

**From the Legislative Counsel’s Digest**

This bill ... require[s] the court to find by clear and convincing evidence that [M] is not amenable to rehabilitation while [in] the juvenile court[‘s] [jurisdiction], to find that [M] should be transferred to [adult] court ...

**From WI 707, subd. (a)(3), *as amended.***

Following ... consideration of the [probation] report [required for transfer hearings], and of any other relevant evidence ..., the juvenile court shall decide whether the minor should be transferred.... *[T]o find that the minor should be transferred to [criminal court], the court shall find by clear and convincing evidence that the minor is not amenable to rehabilitation while [in] juvenile court...* [T]he court shall consider [specified] ... criteria.... If the court orders a transfer ..., the court shall recite the basis for [that] in



WI 782 as amended.

*(a)(1)* A judge of the juvenile court in which a petition was filed *or that has taken jurisdiction ... pursuant to [WI] 750 [transfer between counties]* may dismiss the petition, or ... set aside the findings and dismiss the petition, if ... the interests of justice and the [person's] welfare ... require that dismissal, or if ... ~~he or she is~~ *they are* not in need of treatment or rehabilitation. The court [can] order dismissal or setting aside of the findings and dismissal regardless of whether the person ... is, at the time..., a ward or dependent child of the court....

*(2)(A)* *When exercising its discretion ... [when] the court terminates jurisdiction or ... thereafter, the court shall ... afford great weight to evidence ... [of] mitigating circumstances ..., including, but not limited to, satisfactory completion of ... probation, that rehabilitation has been attained ..., that dismissal ... would not endanger public safety, or that the underlying offense is connected to mental illness, prior victimization, or childhood trauma. Proof of the presence of one or more mitigating circumstances weighs greatly in favor of dismissing the petition.*

*(B).... (C) .... (D) ....*

*(E)* *The great weight standard ... [is] not ... applicable ... where [M was] convicted in criminal court of a serious or violent felony.*

*(F) .... (G)* *The absence of the great weight standard [as described does] not affect the court's authority under para[.] (1).*

*(b)* *The reasons for a decision ... shall be stated orally on the record. The court shall also set [them] forth ... [in] the minutes if requested by either*

party or [when] the proceedings are not being recorded electronically or reported by a court reporter.

(c) The court [can] exercise [this] discretion ... at any time ....

(d) The court [can] exercise [this] discretion ... regardless of whether a petition was sustained at trial, by admission or plea agreement.

(e) Dismissal of a petition, or setting aside of the findings and dismissal of a petition ..., after the person was declared a ward, does not alone constitute a sealing of records .... Any unsealed records ... may be ... inspected, or used by the court, ... probation ..., [P], or [M’s] counsel ... in juvenile court proceedings commenced by ... a new [WI 602] petition ....

(f) Dismissal of the petition, or setting aside the findings and dismissal of the petition, ... does not relieve a person from the obligation to pay ... .. restitution ... [under] a civil judgment under [WI] 730.6.

//

**Room Confinement: New Rules and Restrictions.**

[AB 2321 \(Stats.. 2022, Ch. 781\)](#)

Amends WI 208.3

**From the Legislative Counsel’s Digest**

Existing law places restrictions on the use of room confinement of minors or wards who are confined in a juvenile facility, as specified, and requires the placement of a minor or ward in room confinement to be conducted in accordance with specified guidelines.

Existing law excludes from the definition of room confinement the confinement of a minor or ward in a single-person room or cell for brief periods of locked room confinement necessary for required institutional operations.

This bill ... limit[s] that exclusion to periods of confinement no longer than 2 hours.

The bill... also require[s] minors and wards who are confined to be provided reasonable access to toilets at all hours.

////////////////////////////////////

**Juvenile Court Must Award One Day Credit for Each Day that M Serves on Electronic Monitoring [EM]**

[AB 2658 \(Stats. 2022, Ch. 796\)](#) Adds PC 13012.4 and WI 628.2)

From the Legislative Counsel's Digest

This bill ... entitle[s] [M] to have one day credited against [M's] maximum term of confinement for each day ... that [M] serves on [EM].

This bill ... require[s] the court to hold a hearing every 30 days to ensure that [M] does not remain on [EM] for an unreasonable length of time.

**From Section 1. Legislative Findings and Declarations**

***(a) ... [M's] .... may remain on [EM] for months..., often for minor crimes.... [Y]outh, unlike adults, do not [get] custody credit for time... on [EM].... [T]here is no statutory limit to how long youth can be [on EM].***

***(b) [EM] ... can lead to depression, anxiety, and ... isolation.***

***(c) The restrictions and rules [for EM] often set youth up to fail, especially those with disabilities or cognitive impairments....***



*(d) Even when youth [get] permission to leave ... home, [EMs are] often visible, and most ... emanate [noises], or verbal commands[,] [undermining] the ... confidential[ity] ... of juvenile court....*

*Added WI 628.2*

*(a) [Definitions]*

*(b) [EM] shall not be used to converse ...or to eavesdrop....*

*(c) [M is] entitled to ... one day credit[ ] against [M’s] maximum term ... for each day ...on [EM].... beginning January 1, 2023.*

*(d) [T]he court shall hold a hearing every 30 days to ensure that [M] [is not] on [EM] for an unreasonable ... time. ... [T]he court [shall consider less restrictive alternatives, and if they] would achieve the [court’s] rehabilitative purpose...., the court shall [modify EM terms or] order [EM’s] removal ....*



*Several Rights Are Added to The Youth Bill of Rights, Which Now Applies to All “Juvenile Facilities.”*

[AB 2417 \(Stats. 2022, Ch. 786\)](#)

Amends WI 224.70, 224.71, 224.72, 224.73, 224.74, 2200, 2200.2, and 2200.5.

**From the Legislative Counsel’s Digest**

... [Before this bill,], the Youth Bill of Rights applie[d] to youth ... in a facility of the Division of Juvenile Justice [DJJ] in [CDCR]. [DJJ is set to end on June 30, 2023.]

This bill ... make[s] the Youth Bill of Rights applicable to youth confined in any juvenile facility [as defined].

The bill ... further require[s],... that youth have access [to specified education] and ... access to information regarding parental rights....

Existing law requires ... [DJJ] to provide ... services to youth in their custody without discriminating on [several listed bases]....

The bill ... additionally prohibit[s] discrimination against youth [based on] gender expression or immigration status.

[GB: This bill makes several other changes to the Youth Bill of Rights, and to the function of the Ombudsman in the Office of Youth and Community Restoration in the California Health and Human Services Agency.]

From WI 224.70 *as amended*.

~~(d) (b) “Facility of the Division of Juvenile Facilities [DJF]”~~ “Juvenile facility” means a place of confinement that is operated by, or contracted for, the ~~[GDCR],~~ county probation department or juvenile court for the ... ~~detention or commitment~~ confinement of youth who are ... in custody and [are] ... within [WI] 601 or 602 ~~or~~... [or] are ... a ward of the court.

From WI 224.71 *as amended*.

It is the policy of the state that all youth confined in a ~~DJF:~~ juvenile facility shall have the following rights....

(a) .... (b).... (c) To ... ~~food and water,~~ meals and snacks, clean water at any time, timely access to toilets, access to daily showers, ... personal hygiene items, clean bedding, and ~~[clean clothing]~~ clothing in good repair, including clean undergarments ...daily ..., and new underwear that

*fits. Clothing, grooming, and hygiene products shall be adequate and respect the child's culture, ethnicity, and gender identity and expression.*

(d) To ..., *appropriate*, and ~~appropriate~~ *timely* medical, *reproductive*, dental, vision, and mental health ~~services~~. *services provided by qualified professionals and consistent with current professional standards of care.*

(e)... (f) To not be searched for... harassment or ~~humiliation or as humiliation~~, a form of discipline or ~~punishment~~. *punishment, or to verify the youth's gender. To ... have access to a written search policy at any time, including the policy on who may perform searches.*

(g) .... (h) .... (i) To have ... equal access to all available services, ~~placement~~, *housing*, ..., and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ~~ethnie group~~ ~~...~~, *ethnicity*, ancestry, national origin, *language*, color, religion, sex, sexual orientation, gender identity, *gender expression*, mental or physical disability, *immigration status*, or HIV status.

(j) ... (k) .... (l) .... (m) ...

(n) To receive a *rigorous*, quality education [that] *prepares them for high school graduation, career entry, and postsecondary education; to attend appropriate level* ... classes and vocational ~~...~~ *training; to have access to postsecondary academic and career technical education courses and programs; to have access to computer technology and the internet for ... education and to continue to receive educational services while on disciplinary or medical* ~~status~~. *status* ....

*(o) To information about their rights as parents, including available parental support, reunification advocacy, and opportunities to maintain or develop a connection with their children; to access educational information or programming about pregnancy, infant care, parenting, and breastfeeding, and childhood development; to proper prenatal care, diet, vitamins, nutrition, and medical treatment; to counseling for pregnant and postpartum youth; to not be restrained by the use of leg irons, waist chains, or handcuffs behind the body while pregnant or in recovery after delivery; to not be restrained during a medical emergency, labor, delivery, or recovery unless ... necessary for their safety and security, and to have restraints removed when a medical professional determines removal is medically necessary; and to access written policies about pregnant, postpartum, and lactating youth....*



**MENTAL HEALTH**

**See “Diversion,” for major changes in Mental Health Diversion pursuant to PC 1001.36 made by SB 1223.**

**See “Briefly Noted” concerning 72-hour and other LPS holds.**



**Mental Health Records Must Accompany Inmates Transferred Between CDCR and State Hospitals or Counties.**

[AB 2526 \(Stats.. 2022, Ch. 968\)](#) Adds PC 5073; amends Civ. C. 56.10

**[From Added PC 5073:](#)**

*(a) When jurisdiction of an inmate is transferred from or between CDCR, the [Dept.] of State Hospitals, and county agencies caring for inmates, these agencies shall disclose ... mental health records for any ... inmate who received mental health services ... in ... the transferring facility. [They] shall be disclosed at the time of transfer or within seven days of [that], except when the person is transferred to a state hospital ... the records shall be provided prior to, or at the time of, transfer.*

*(b) Mental health records shall be disclosed by and between a county correctional facility, county medical facility, state correctional facility, state hospital, or state-assigned mental health provider to ensure sufficient mental health history is available for the purpose of satisfying the requirements of [PC] 2962 for inmate evaluations and to ensure the continuity of mental health treatment of an inmate being transferred ....*



**Incompetency to Stand Trial: PC 1369.1, allowing approved jails to be treatment facilities is repealed; and other changes.**

SB 184 (Stats 2022 Ch. 47)      Effective July 1, 2022

This omnibus bill amends, inter alia,

**For another aspect of SB 184 concerning eligibility for Mental Health Diversion (PC 1001.36), see “Diversion; Deferred Entry of Judgment,” “Mental Health Diversion Eligibility Criteria....” Above.**

Amends PC 1001.36, 1026, 1026.2, 1369, 1370, 1370.6, 1372, 1602, 1603, 1604, ... and repeals PC 1369.1, and amends WI 4335.2, ..., 4361, 5328, and adds WI 4361.7, and 5325.3, and affects dozens of other §§ of various Codes.

**From the Senate Rules Committee, Office of Senate Floor Analyses [of this omnibus bill], for June 26, 2022:**

¶...¶ [Re”] Incompetent to Stand Trial (IST). [This bill:]

Revises the roles of a licensed psychologist or psychiatrist in the process of determining, [and treating] a defendant’s mental competency to stand trial, [concerning treatment with antipsychotic medication]. Revises the court’s duties and increases the documentation required....

Requires, effective July 1, 2023, that a mentally incompetent [Def] first be considered for placement in an outpatient treatment program, a community treatment program, or a diversion program, if available, unless the court finds that [Def’s] clinical needs ..., or the risk to community safety, warrant placement in a State Hospital.

.... Repeals the authorization for the administration of antipsychotic medications in a county jail.

.... Authorizes DSH to contract for medical, evaluation, and other services for felony [Defs] in county jail deemed incompetent to stand trial.

.... Authorizes DSH to conduct reevaluations of those defendants awaiting admission any time after commitment has been ordered. [Before this bill, DHS had this authority only if the person had been in jail for 60 days after the incompetency finding. WI 4335.2.]

.... Authorizes a court to order the involuntary administration of antipsychotic medication based upon a reevaluation....

.... Requires DSH to implement a cap on the number of mentally incompetent persons committed to State Hospitals in each county per year and assess a penalty rate for commitments exceeding that cap.... Requires the penalty funds to be dispersed to each county in amounts equal to the penalty payments made for the purpose of supporting county mental health services and activities.

Establishes, until June 30, 2026, a statewide panel of independent evaluators to identify and evaluate state hospital patients who are appropriate for participation in the Forensic Conditional Release Program which provides outpatient and community-based treatment to individuals committed to State Hospitals....

[In addition, but not mentioned in the floor analysis above, or in the Legislative Counsel's Digest, this bill also makes changes concerning certain procedures for placements of persons found not guilty by reason of insanity (PC 1026 and 1026.2).]

**SECTION 42 of SB 184:**

~~Section 1369.1 of the Penal Code is repealed.~~

~~**1369.1.**~~

~~(a) As used in this chapter, "treatment facility" includes a county jail. Upon the concurrence of the county board of supervisors [for some counties, including approval of others also], the jail may be designated to provide medically approved medication to defendants found to be mentally incompetent and unable to provide informed consent due to a mental disorder, pursuant to this chapter....~~

*This does not end all local treatment. Under WI 4335.2 as amended, DHS may still reevaluate the person for incompetency. Under new WI 4361.7 DHS may "contract for medical, evaluation, and other services as necessary to facilitate early access to treatment for individuals in county jails who have been deemed incompetent to stand trial on a felony charge.*

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**PAROLE and POSTRELEASE COMMUNITY SUPERVISION (PRCS)**

See also: Probation and Mandatory Supervision., about Flash Incarceration.

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## PEACE OFFICERS

### *The new “Peace Officer Standards Accountability Advisory Board”*

[SB 2 \(Stats., 2021, Ch. 409\)](#)

Adds PC 13509.5 and 13509.6

See the Commission on Peace Officer Standards and Training’s (POST’s) Senate Bill 2 page: <https://post.ca.gov/sb-2> .

For other aspects of SB 2, see other entries in “Peace Officers,” & “Evidence”

From the Legislative Counsel’s Digest for this part of SB 2:

The bill ... create[s] the Peace Officer Standards Accountability Division within the [Peace Officer Standards and Training (POST)] commission to review investigations conducted by law enforcement agencies and to conduct additional investigations into serious misconduct that may provide grounds for suspension or revocation of a peace officer’s certification,....

The ... division [must] review grounds for decertification and make findings as to whether grounds for action against an officer’s certification exist.... [T]he division [must] notify the officer subject to decertification of their findings and allow the officer to request review.

The bill ... also create[s] the Peace Officer Standards Accountability Advisory Board with 9 members ... appointed as specified.

The ... board [must] hold public meetings to review the findings after [a division] investigation ... and ... make a recommendation to the commission.

The bill ... require[s] the commission [i.e., POST] to review the [board’s] recommendation ... and, if action is to be taken against an officer’s certification, return the determination to the division to commence formal proceedings.... The bill ... require[s] the commission to notify the employing agency and the [district attorney]....



The bill ... require[s] an agency employing peace officers to report to the commission the employment, appointment, or separation from employment of a peace officer, any complaint, charge, allegation, or investigation into the conduct of a peace officer that could render the officer subject to suspension or revocation, findings by civil oversight entities, and civil judgments that could affect the officer’s certification.

**New PC 13510.9, subds. (a)(3) and (b)** implements the requirement that the peace officer agency give the commission findings made by a civilian oversight entity that could affect the officer’s certification:

*(a) Beginning January 1, 2023, any agency employing peace officers shall report to the commission within 10 days, in a form specified by the commission, any of the following events:… (1)… (2) …*

*(3) Any finding or recommendation by a civilian oversight entity, including a civilian review board, [or similar civilian watchdog], [or] police chief, ..., that [that agency’s] peace officer ... engaged in conduct that could render [the] officer subject to suspension or revocation of certification....*

*(b) By July 1, 2023, any agency employing peace officers shall report to the commission any events described in subd[.] (a) that [were] between January 1, 2020, and January 1, 2023.*

[Note: it is the employing agency, not the oversight entity, that reports. GB]

In addition, By, or beginning on, January 1, 2023, several similar provisions in the following sections also become operative:

PC 832.7, subd. (b)(2); PC 13509.6; PC 13510.1, subd. (h)(2), PC 13510.8, subds. (b) and (c)(1); PC 13510.9, subd. (a); and, beginning July 1, 2023, PC 13510.9, subd. (b).





ill or ... is permanently medically incapacitated and ... release... [is not] a threat to public safety....

This bill ... reorganize[s] these provisions....

The bill ... remov[es] the 24-hour total care requirement[,] and ... include[s] functional impairments resulting in the permanent inability to complete activities of daily living[,] and progressive end-stage dementia ....

The bill ... create[s] a presumption in favor of recall and resentencing if the court finds [the person is eligible], unless the court finds [Def] is an unreasonable risk of danger to public safety, as defined.

The bill ... require[s] appointment of counsel ....

From the Senate Committee on Public Safety report for June 28, 2022.

... The eligibility criteria for the Compassionate Release program [had been] too narrow and the process too cumbersome for a population that poses the lowest risk to public safety. [So], very few people [were] granted relief and, [so], many die[d] while awaiting a referral to the court.... [T]he State [was] spending more money to cover costly health care services for a population that is nearing death or requiring thoughtful medical attention. ...

... This bill .... authorizes the chief medical officer [as defined], instead of the [CDCR] Secretary, to determine that [a] person [is medically eligible] ....

*From Added PC 1172.2. (Emphasis added)*

*(a) [I]f the statewide chief medical executive, in consultation with [specified] other[s] ... determines that an incarcerated person satisfies the medical criteria ... in subd[.] (b), [CDCR] shall recommend ... that the incarcerated person's sentence be recalled.*

*(b) There[is] a presumption favoring recall and resentencing ... if ... [Def is] eligible [per items (1) and (2), below], which may only be overcome if ...*

*[Def] is an unreasonable risk of danger to public safety, as defined ..., based on the ... current physical and mental condition.*

*(1) The ... person has a[n] ... advanced [terminal] illness, [listing 4 conditions as examples].*

*(2) The ... person is permanently ... incapacitated with a medical condition or functional impairment [and is] unable to [do] basic activities of daily living, ... or has ... end-stage dementia, ....*

*(c) Within 10 days of receipt of a ... recommendation by [CDCR], the court shall hold a hearing [on] ... [sentence] recall[ ].*

*(d) Any [CDCR] physician ...or ... designee, who determines that [a] person [is eligible] shall notify the chief medical executive .... If [they agree]..., they shall notify the warden. Within 48 hours ..., the warden or ... [designee] shall notify the ... person of the recall and resentencing procedures, and ... [let] ... [the] person ... designate a family member or ... [an] agent to be notified [of] the ...person's ... condition and prognosis, and [of] the recall and resentencing procedures. If the ...person is ... mentally unfit, [the] contact [shall be with] the ... person's emergency contact ....*

*(e) The department shall refer the matter to the court ... within 45 days of the ... referral to the chief medical executive.*

*(f) The warden ... shall provide the ... person and their family member, agent, or emergency contact, ..., information throughout ... [about] the ... person's ... condition and the status of the ... recall ... proceedings.*

*(g)... [T]he ... person or their family member or designee may independently request consideration for recall and resentencing by contacting the chief medical executive .... Upon [that] request, the chief medical executive and the warden or [designee] shall follow the procedures ... in subd[.] (d). If [CDCR] determines that the ... person satisfies the criteria ..., [CDCR] shall [within 45 days] recommend to the court that the... person’s sentence be recalled.*

*(h) .... (i).... (j).... (k)... [T]he ... person shall have the right to counsel and, if indigent, the right to court appointed counsel. (l) ....*

*(m) [Medical and correctional staff must be [told] the procedures].*

*(n) The[se] provisions ... [are] available to ... person[s] ...sentenced to a county jail pursuant to [PC 1170, subd (h)] ...*

*(o) [Inmates with death or LWOP sentences are not eligible].*

[This procedure has also been called “Medical Parole.” GB]



**Wardens required to deliver process on an incarcerated person.**

AB 1974 (Stats.. 2022, Ch. 255)

Amends PC 4013

**PC 4013 as amended**

(a) A **sheriff** warden, **sheriff**, or jailer upon whom a paper in a judicial proceeding, directed to ~~a prisoner in his or her custody, an incarcerated person in the custody of the warden, sheriff, or jailer,~~ is served, shall forthwith deliver ~~it the paper~~ to the ~~prisoner, incarcerated person,~~ with a

note thereon of the time of its service. ~~For a neglect to do so, he or she~~ *The warden, sheriff, or jailer* is liable to the ~~prisoner-incarcerated person~~ for all damages occasioned ~~thereby.~~ *thereby for neglecting to do so.*

(b) Service directed to a person who is incarcerated within any institution in this state may be served by any person who may lawfully serve process.

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***Jail Discharge: Information and Phone Calls Must Be Provided.***

[AB 2023 \(Stats.. 2022, Ch. 327\)](#)

Adds PC 4024.5

From the Legislative Counsel's Digest:

Existing law [PC 4024] authorizes a ... sheriff to discharge a person from a county jail at any time on the last day that [Def] may be confined that [is] in the best interests of [Def].... [A] sheriff [can] offer... to [Def] ... to stay in jail for up to 16 [more] hours or until normal business hours, ... to [let Def] ... be discharged to a treatment center or during daytime hours.... [The] sheriff [must let Def] make a ... call ... for transportation or notify a bail agent.

This bill ... require[s] a sheriff to make the release standards, release processes, and release schedules ... available to [Defs], as specified. The bill ... also grant[s] a [Def] in, or recently released from, a ... jail up to 3 free telephone calls from ... the ... jail to plan for a safe and successful release.

***From Added PC 4024.5.***

***(a) ....***

***(b)(1) The sheriff shall make the release standards, release processes, and release schedules of the county jail available to a person following the determination to release that person.***

***(2) The release standards shall include the list of rights enumerated in this section and the timeframe for ... release ....***

*(c) A person incarcerated in, or recently released from, a ...jail shall have access to up to three free telephone calls from ... the county jail to plan for a safe and successful release.*



**Deaths in Custody Must Be Reported on Institution Web Sites**

[AB 2761 \(Stats. 2022, Ch. 802\)](#)

Adds PC 10008

**From PC 10008.**

*(a) When a person who is in custody dies, the agency with jurisdiction over the state or local correctional facility [involved], consistent with reporting requirements ... pursuant to [GC] 12525, ... [must] post ... the following on its internet website:*

- (1) The full name of the agency [involved] at the time of death.*
- (2) The county in which the death occurred.*
- (3) The facility ..., and ... location within [it] where the death occurred.*
- (4) The race, gender, and age of the decedent.*
- (5) The date on which the death occurred.*
- (6) The custodial status of the decedent, including ... whether the person was awaiting arraignment, awaiting trial, or incarcerated.*
- (7) The manner and means of death.*

*(b) [This subdivision. states requirements for notifying the next of kin.]*



**Prisons and Youth Residential Placement or Detention Centers Must Provide Free Phone Calls to Incarcerated Persons**

[SB 1008 \(Stats.. 2022, Ch. 827\)](#)

**From New PC 2084.5:**

*(a) A state prison or youth residential placement or detention center operated by [CDCR] shall provide persons ... confined in a correctional or detention facility with accessible, functional voice communication services free of charge to the person initiating and the person receiving the communication. ... [F]ree voice communication services [shall] not interfere with necessary programming.*

*(b) A state agency shall not receive revenue from [providing] voice communication ... or ... other communication services to a person confined in a state correctional or detention facility.*

**From New WI 208.1.**

*(a) A county or city youth residential placement or detention center shall provide persons in their custody with accessible, functional voice communication services free of charge to the person initiating and the person receiving the communication.*

*(b) A county or city agency shall not receive revenue from the ... voice communication services or any other communication services to any person confined in a ... youth residential placement or detention center.*



**CDCR's Updated (through 11/18/22) Credit-Earning Opportunities**

Here are links:





**PROFESSIONAL LICENSES AND CERTIFICATES**

See Background Checks



**RECALL AND RESENTENCING**

See also: Prisons and Jails

See also: Habeas Corpus



***The New “Recall and Resentencing” Penal Code Article***

[AB 200 \(Stats. 2022, Ch. 58\)](#)                      Urgency, effective June 30, 2022

This 47-section omnibus bill, at its sections 7 to 12, renumbered and moved five sections of the Penal Code to a new Article 1.5, “Recall and Resentencing” (commencing with § 1172), in Ch. 4.5 of Title 7 of part 2, of the PC.

Renumbered and moved are:

1170.01 = 1172 (A pilot resentencing program)

1170.03 = 1172.1 (Recall within 120 days of the initial sentence)

1170.95 = 1172.6 (Felony murder resentencing; see below.)

1171 = 1172.7 (Resentence for the 3-yr. drug prior of former HS 11370.2.)

1171.1 = 1172.75 (Resentence for the former 1-year prison prior.)

See Prisons and Jails for 2022’s AB 960, recodifying into this Article, and expanding, compassionate release.



**Eligibility Expanded for Traumatized Veterans to Petition for a Lower Sentence.**

[SB 1209 \(Stats. 2022, Ch. 721\)](#)

Amends PC 1170.91

**From the Legislative Counsel's Digest.**

Existing law requires a [sentencing] court, if it concludes that a [Def] convicted of a felony... is or was a member of the [U.S.] military who may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of [Def's] military service, to consider that circumstance as a factor in mitigation when imposing a sentence.

Existing law allows a [Def] who is currently serving a felony sentence ... to petition for resentencing if those criteria were not considered at the ... sentencing [that] was prior to January 1, 2015.

This bill ... allow[s] a [Def.] meeting these criteria to petition for recall of sentence and resentencing, as specified, without regard to whether [Def] was sentenced prior to January 1, 2015.

The bill ... exclude[s] from ... from resentencing, any person convicted of, or having a prior conviction for, certain violent and sexual offenses.

[**Note by GB: The Digest does not mention** that existing law limited this to people with a determinate sentence; and this bill extends that to [Def's] with indeterminate sentences.]

**From PC 1170.91, [as amended.](#)**

(a) If the court concludes that a [Def] convicted of a felony ... is, or was, a member of the [U.S.] military who may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of ~~his or her~~ [Def's] military service, the court shall consider the circumstance as a factor in mitigation when imposing a ~~term under subdivision (b) of Section 1170.~~ *sentence*....

(b)(1) A person [described above] currently serving a sentence for a felony ..., whether by trial or plea, ... may petition for a recall of sentence, ... [and] request resentencing ~~pursuant to subdivision (a) if the person meets both of the following conditions: if the circumstance of suffering from [any of the above traumas] as a result of [Def's] military service was not considered as a factor in mitigation at the time of sentencing.~~

~~(A) ... [The trauma or problems] ... as a result of ... military service was not considered ... in mitigation at ... sentencing.~~

~~(B) The person was sentenced prior to January 1, 2015. ....~~

(2) .... (3) Upon receiving a petition ..., the court shall determine, at a ... hearing ... whether the person satisfies the criteria.... If [so], the court may, in ~~... the interest of justice, and regardless of whether the original sentence was imposed after a trial or plea, do either of the following:~~

~~(A) Reduce [Def's] term ... by modifying the sentence.~~

~~(B) Vacate the conviction and impose judgment on any necessarily included lesser offense or lesser related offense, whether or not that offense was charged in the original pleading, and ... resentence [Def] to a reduced term of imprisonment with the concurrence of both [Def.] and [P] or [the Atty. Gen., if DOJ prosecuted the case].~~

(4) .... (5) ~~...~~ ... [Resentencing] shall not result in ... a [longer] term ....

(6).... (7).... (8).... (9)....

~~(10) This subdivision shall apply retroactively.~~

~~(c) This section does not apply to [a Def] convicted of ... an offense specified in [PC 667, subd. (e)(2)(C)(iv)] or an offense requiring registration pursuant to [PC 290, subd. (c)].~~

From the Assembly Comm. on Public Safety report for Jun. 14, 2022



## RESTITUTION

### ***Petitions for Relief from Convictions Can't Be Denied Solely Because Of Unfulfilled Restitution or Restitution Fine Orders.***

[SB 1106 \(Stats. 2022, Ch. 734\)](#)

Amends PC 17, 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, and 1203.45.

Adds PC 1210.6. Repeals PC 11177.2.

### **From the Legislative Counsel's Digest**

Existing law requires a court to order [Def] ... to pay full restitution to [V] and a separate restitution fine....

Existing law, in specified cases ... requires a court to dismiss the accusation, as described, thus releasing the person of any penalties and disabilities of conviction, except as otherwise provided.

Existing law authorizes the court, in its discretion ..., in specified cases to provide that relief to a [Def] who does not meet the stated requirements.

This bill ... prohibit[s] a petition for relief, whether statutorily authorized or in the court's discretion, from being denied due to an unfulfilled order of restitution or restitution fine.

[Before this bill, the] law prohibit[ed] a parolee or inmate from being released on parole to reside in another ... state if the parolee or inmate is subject to an unsatisfied order for restitution ... or a restitution fine ... except as specified.

This bill [repeals] that prohibition.

Section 1 of SB 1106 is 15 uncodified legislative findings and declarations, (a) to . Here are portions of subdivisions (d), (f), and (h):

*(d) Courts impose restitution against Black and Brown people at disproportionate rates.... [I]n Los Angeles County, Black people make up 8 percent of the population but were charged 20 percent of all ... restitution....*

*[W]omen are ordered to pay restitution in amounts that are 2.5 times greater than men.*

*.... (f) ... [M]ost people with restitution debt cannot afford to pay it.*

*.... (h) People who cannot afford to pay restitution, and restitution fines, are subject to harsher and prolonged punitive outcomes that often create long-lasting harm for individuals and their families.*

*New subdivision (f) of PC 17: “When the court exercises its discretion under this section, an unfulfilled order of restitution or a restitution fine shall not be grounds for denial of a request or application for reduction.”*

*New subdivision (c)(3) of PC 1203.4:*

*(3)(A) A petition for relief under this section shall not be denied due to an unfulfilled order of restitution or restitution fine.*

*(B) An unfulfilled order of restitution or a restitution fine shall not be grounds for finding that a defendant did not fulfil the condition of probation for the entire period of probation.*

*(C) When the court considers a petition for relief under this section, in its discretion and in the interest of justice, an unpaid order of restitution or restitution fine shall not be grounds for denial of the petition for relief.*

PC 1203.4a has added subdivision (e), PC 1203.4b has added subdivision (c)(4), and PC 1203.45 has added subdivision (f) that are all similar to the subdivision added to PC 1203.4.

PC 1203.41 has added subdivision (d), and PC 1203.42 has added subdivision (c) that are both similar to the subdivision added to PC 17.

***Here is added PC 1210.6.*** It is added, presumably, to Chapter 1 (sections 1191 to 1210.5, including PC 1203.4 et seq.), of PC Part 2, Title 8. “The Judgment”





This five-page Rule is revised throughout, effective January 1, 2023, to reflect that a M under WI 602 might be placed in a Community Treatment Facility. See, generally, HS 1502, WI 727.12, WI 4094.

**Rule 5.625.** “Orders after filing of petition under section 601 or 602”

Amended is subdivision (a), concerning which forms to use when a petition has been filed under 601, or 602, and if the restrained person is the subject of a such a petition.

*Two of the forms referred to in Rule 5.625(a) are not available at the California Courts web site at this writing, December 6, 2022. See [Forms](#).*

**Rule 5.630** “Restraining Orders.”

Every subdivision of this five-page Rule has been amended.

*Two of the forms referred to in Rule 5.630, one in subdivision (c)(3), and one in subdivision (d)(4,) are not available at the California Courts web site at this writing, December 6, 2022. See [Forms](#).*

**Rule 5.766** General Provisions [re: Transfer hearings]

**Rule 5.768** Report of Probation Officer [re: transfer, and other, hearings]

**Rule 5.770** Conduct of Transfer Hearing under Section 707, ***But R. 5.770(a) is not changed, despite AB 2361 changing the standard of proof in from preponderance of the evidence (as currently stated in R. 5.770(a)), up to clear and convincing.*** *The changes to R. 5.770 were adopted by the Judicial Counsel on September 20, 2022, and AB 2361 was signed by Gov. Newsome on September 15, 2022. Presumably, the Judicial Council will adopt a new R. 5.770 quickly.*

**Rule 8.60** (“Extending Time”) and **Rule 8.63** (“Policies and factors governing extension of time”) have both been amended to cover cases, such as those in new rule 8.417, discussed below, where an extension of time requires “an exceptional showing of good cause”

**Rule 8.404** (Stay pending appeal) has been amended to state “*does not apply to a court’s order under rule 5.770(e)(2) staying the criminal court proceedings during the pendency of an appeal of an order transferring the minor from juvenile court to a court of criminal jurisdiction*”

**Rule 8.406** (“Time to appeal”) has been amended by adding to subdivision (a), a new paragraph (2) stating special rules “*To appeal from an order transferring a minor to a court of criminal jurisdiction.*”

**Rule 8.409** (“Preparing and sending the record”) has been amended to state that it does not apply in cases governed by Rule 8.417 [Transfer cases, discussed below].

**Rule 8.412** (“Briefs by parties and amici curiae”), subdivisions (b), (c), and (d), have been amended to state exceptions for Rule 8.417. [Transfer cases, discussed below].

**Rule 8.417** (“*Appeals from orders transferring a minor from juvenile court to a court of criminal jurisdiction*”) is a new rule, effective January 1,2023.

Subdivisions are:

- (a) *Application*
- (b) *Form of Record*
- (c) *Record on Appeal*
- (d) *Preparing, certifying, and sending the record.*
- (e) *Augmenting or correcting the record*
- (f) *Time to file briefs*
- (g) *Extensions of time.. These require “an exceptional showing of good cause.”*
- (h) *Failure to file a brief.*
- (i) *Oral argument and submission of the cause.*



**Determinate Sentencing Rules Were Updated eff. March 14, 2022.**

- Rule 4.405. Definitions
- Rule 4.406. Reasons
- Rule 4.408. Listing of factors not exclusive; sequence not significant
- Rule 4.411.5. Probation officer’s presentence investigation report
- Rule 4.414. Criteria affecting probation
- Rule 4.420. Selection of term of imprisonment for offense
- Rule 4.421. Circumstances in aggravation
- Rule 4.423. Circumstances in mitigation
- Rule 4.424. Consideration of applicability of section 654
- Rule 4.425. Factors affecting concurrent or consecutive sentences
- Rule 4.427. Hate crimes
- Rule 4.428. Factors affecting imposition of enhancements
- Rule 4.437. Statements in aggravation and mitigation
- Rule 4.447. Sentencing of enhancements



**RULES OF PROFESSIONAL CONDUCT**

See “Attorneys” above: for the new CTAPP.

**Rules 1.4 and 1.15 Amended for the New CTAPP, eff. Jan. 1, 2023**

From the Bar’s “Ethics News” page, <https://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Ethics/Publications/Ethics-News> (accessed Dec. 4, 2022).

[Rule 1.4](#) addresses ... a lawyer’s .... duty to keep a client informed about significant developments ... (rule 1.4(a)(3)). As amended, Comment [1]

to rule 1.4 ... provides that: “Whether a ... development is significant ... depend[s] on the surrounding facts and circumstances. [E.g.], a lawyer’s receipt of funds on behalf of a client requires communication with the client pursuant to rule 1.15, paragraphs (d)(1) and (d)(4) and ... is also a significant development requiring communication with the client pursuant to this rule.”

[Rule 1.15](#) addresses a lawyer’s responsibilities for handling entrusted funds and property. Rule 1.15(d)(1) provides that when a lawyer receives funds or other property, the lawyer must, absent good cause, notify the client or other person entitled to the funds or property of that fact no later than 14 days of the receipt of the funds or other property. The ... former ... standard ... only provided that a notice must be “promptly” given ....

Rule 1.15(d)(7) requires a lawyer to “promptly distribute any undisputed funds or property ... that the client or other person is entitled to receive.” [The former version said that distribution should be made upon a request from a client or other person.]

[N]ew paragraphs (f) and (g) add a rebuttable presumption that funds or property must be disbursed within 45 days of the time those funds or property become undisputed as defined in the rule. [Without a contrary] agree[ment] in writing ... there is a rebuttable presumption affecting the burden of proof in a disciplinary action that there is a violation if the lawyer, absent good cause, fails to distribute undisputed funds or property within 45-days of ... when the funds become undisputed. (See rule 1.15(f).)....



**SEARCH AND SEIZURE**

See “Early Notice,” below, for a bill about stops on vehicles and pedestrians.



**SENTENCES**

**Courts must consider alternatives to incarceration**

AB 2167 (Stats. 2022, Ch. 775)

Adds PC 17.2

Section 1 of this bill has five uncodified legislative findings and declarations:

*The Legislature finds and declares ...:*

*¶...¶ (e) It is the intent of the Legislature that the court ... impose an alternative to incarceration, except where ... necessary to prevent physical injury to others or the interests of justice would best be served by incarceration.*

Section 2 of this bill *adds PC 17.2:*

*(a) It is the intent of the Legislature that the disposition of any criminal case use the least restrictive means available.*

*(b) The court ... shall consider alternatives to incarceration, including, without limitation, collaborative justice court programs, diversion, restorative justice, and probation.*

*(c) The court shall have the discretion to determine the appropriate sentence according to relevant statutes and the sentencing rules of [court].*



**Misdemeanor Child Abuse and Elder Abuse added to list of gun prohibition for 10 years.**

AB 2239 (Stats. 2022, Ch. 143).

Amends PC 29805.

**From the Legislative Counsel’s Digest:**

Existing law prohibits a person convicted of ... specified misdemeanors from possessing a firearm for ... 10 years.... This bill ... include[s] ... misdemeanor ... child abuse or elder abuse ... [occurring] on or after Jan[.] 1, 2023.

From PC 29805 *as amended*:

(d) Any [Def] who is convicted on or after January 1, 2023, of a misdemeanor violation of ~~subdivision~~ *Section 273a, subdivision (b), (c), or (f) of Section 368, or subdivision* (e) or (f) of Section 29180, and who, within 10 years of the ~~conviction,~~ *conviction* owns, purchases, receives, or has in possession or under custody or control, any firearm is ..., punishable by ... county jail [up to] one year or in the state prison, by a fine [up to \$1,000], or by both that ~~imprisonment~~ *fine* and ~~fine.~~ *imprisonment.*



**STATUTES OF LIMITATION**

**Limitations Period for Mandated Reporters of Child Abuse to Report Abuse or Severe Neglect Increased.**

[AB 2274 \(Stats. 2022, Ch. 587\)](#)

Amends PC 801.6, adds PC 801.8

**From the Legislative Counsel’s Digest**

...[T]he Child Abuse and Neglect Reporting Act, makes certain persons, including teachers and social workers, mandated reporters.

... [M]andated reporters are required to report whenever [they], in their professional capacity or ... employment, ha[ve] knowledge of or observe[ ] a child whom [they] know[ ] or reasonably suspect[ ] has been the victim of child abuse or neglect. Failure b... to report... is a misdemeanor.

... [F]ailure to report an incident [of] sexual assault may be filed [up to] 5 years from the ... occurrence of the offense. [Other failures to report, before this bill, the normal one-year misdemeanor statute of limitations.]

This bill ... allow[s] a case involving the failure to report an incident known or reasonably suspected by the mandated reporter to be child abuse or severe neglect, as defined, to be filed within one year of the discovery of the offense, but in no case later than 4 years after the commission of the offense.

**PC 801.6. ~~as amended.~~**

... [P]rosecution for any offense proscribed by Section 368, except for a violation of any provision of law proscribing theft or embezzlement, ~~or for the failure of a mandated reporter to report an incident under [PC] 11166 known or reasonably suspected by the mandated reporter to be sexual assault ...,~~ may be filed at any time within five years from the date of occurrence of such offense.

***From Added PC 801.8.***

*(a) ... [P]rosecution for the failure of a mandated reporter to report an incident under [PC] 11166 known or reasonably suspected by the mandated reporter to be sexual assault as defined ..., may be filed at any time within five years from the date of occurrence of such offense.*

*(b) ... [P]rosecution for the failure of a mandated reporter to report an incident under [PC] 11166 known or reasonably suspected ... to be child abuse or severe neglect ..., may be filed within one year of the discovery of the offense, but [not] later than four years after [its] commission ....*



**VEHICLES**

See also Crimes, “Vehicular Manslaughter: Sideshows and Certain Speeding Added to Definition of ‘Gross Negligence’ ”



**Penalties for Driving Without Having a Valid License, Reduced**

**Note: this concerns *unlicensed driver, VC 12500*; not driving without license in possession, VC 12951**

[AB 2746 \(Stats. 2022, Ch. 800\)](#) Adds VC 40000.10 and amends VC 40000.11

*For another aspect of AB 2746, about suspended licenses, see below.*

**From the Legislative Counsel’s Digest**

[Before this bill, the] law prohibited a person from driving a motor vehicle upon a highway, unless the person holds a valid driver’s license, except as specified. A violation ... [was] a misdemeanor.

This bill ..., instead, make[s] a violation ... an infraction for a first or 2nd offense, except as specified, and a misdemeanor or an infraction for subsequent violations.

**How to Find the Penalties for Violation of a VC Section.**

Driving with no driver’s license (CDL) having been issued is prohibited by VC 12500. (Driving with a CDL issued but not in possession is VC 12951.)

But VC 12500, like most VC sections, does not state a penalty.

The penalties for most non-DUI VC violations are in VC 40000.1 to 40008. (The penalties for DUI offenses are in VC 23500 to 23675.)

**The Penalties for Driving with No CDL Issued (VC 12500).**



Before this bill, and until Jan. 1, 2023, they were in VC 11000.11, subdivision (b). This bill **deletes** that provision:

[VC] 40000.11. A violation of any of the following provisions is a misdemeanor, and not an infraction: (a) .... ~~(b) Section 12500, subdivision (a), relating to unlicensed drivers....~~....

*Added VC 40000.10.*

*A violation of subdivision (a) of Section 12500 shall be punished as follows:*

*(a) Except as provided in subdivision (b), as an infraction by a fine of one hundred dollars (\$100) for a first or second violation.*

*(b) As a misdemeanor or an infraction as [per] [PC] 19.8<sup>[7]</sup> if a person has a prior driver's license suspension or revocation for a violation of [PC 192, subd. (c)], [VC 12809, subd. (e)]; or of [VC] 13353, 13353.1, 13353.2, 23103, 23104, 23105, 23109, 23152, 23153, or 23154.*

*(c) As a misdemeanor or an infraction as [per] [PC] 19.8 for a third or subsequent violation.*

**This is effective January 1, 2023.**

This CDL section of this bill once had a delayed operative date. But the bill was amended on May 19, 2022, to delete that.

“[The] Senate Amendments ... [a]llow the provision of this bill reducing penalties for driving without a license to take effect on January 1, 2023,”

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<sup>7</sup> PC 19.8 permits P to file, and permits the Court to reduce, for a listed misdemeanor, including VC 12500, instead of a misdemeanor, an infraction.

says the “Assembly Floor Analysis” of August 29, 2002, at p. 1. (See also, the general law on when new bills take effect, at Cal. Const. Art. IV, Section 8(c).)

**This is Probably Retroactive to Cases that Were Not Final on 1/1/23..**

This section of this bill (Section 20 of AB 2746) reduces punishment and does not contain a savings clause that preserves the old punishment for cases coming before this bill’s effective date. Therefore it is probably retroactive to non-final cases that arose before this bill’s effective date of January 1, 2023. (See *In re Estrada* (1965) 63 Cal.2d. 740) when, after it is committed, the punishment for a crime is reduced, the punishment is not the old one, but the new, reduced one (unless there is a savings clause).)

Also, the amendment to this provision, deleting the delay of its effective date to 2027 is evidence of Legislative Intent to apply this reduction of punishment widely.



**Driver License Suspensions for FTA, are “Effectively ... Stop[ped].”**

[AB 2746 \(Stats. 2022, Ch. 800\)](#)

Repeals VC 40509 and 40509.5 on Jan. 1, 2023.

Amends VC 13365 & 13365.2 on Jan. 1, 2023; repeals them on Jan. 1, 2027.

Amends, repeals, and adds, several other sections of GC and VC.

Section 27 of this bill is an uncodified provision, requiring DMV to terminate suspensions that were pursuant to VC 13365 and 13365.2, on Jan. 1, 2027.

*For another aspect of AB 2746, lowering penalties for driving with no CDL issued, see above.*

**Discussion by GB.**

When a person who signed a promise to appear on a traffic citation (ticket) fails to appear (FTA) in court as promised (or is FTA on a lawful continuance of that promise), the court may, and in some cases must, notify DMV, pursuant to VC 40509 and 40509.5.

Upon receiving such notifications, DMV is, in many cases, required, to suspend the person's California Driver License (CDL or DL.), by VC 13365 and 13365.2.

AB 2746 repeals VC 40509 and 40509.5 on January 1, 2023. The court will no longer have the authority to notify DMV of those FTAs.

Thus, "Effectively, license suspensions for failing to appear should stop occurring beginning on January 1, 2023," says the "Assembly Floor Analysis (Concurrence in Senate Amendments)" of August 29, 2022.

That is because DMV can only suspend licenses under VC 13365 and 13365.2, upon receipt of a court notice pursuant to VC 40509 or 40509.5. Repealing the court's authority to give those notices, effectively stops DMV from suspending CDLs for that reason.

DMV still has the authority, however, to suspend CDLs upon receiving 40509 and 40509.5 notices, and, on January 1, 2023, there likely will still be some out there that have not yet been processed.

VC 13365 and 13365.2 have been amended, effective January 1, 2023, until January 1, 2027, to permit DMV to suspend licenses upon receipt of notices pursuant to *former* VC 40509 and 40509.5.

Obviously, as DMV processes the outstanding notices, there soon will not be any more such notices remaining to be processed. Thus, the repeal of VC 40509 and 40509.5 effectively stops those suspensions.

On January 1, 2027, VC 13365 and 13365.2 are repealed. In addition, **uncodified Section 27 of AB 2746 says:**

***SEC. 27. Any suspension of a person's driving privilege issued by [DMV] pursuant to Section 13365 or Section 13365.2 of the Vehicle Code prior to January 1, 2027, shall be terminated on January 1, 2027.***

**FTA is still a misdemeanor, under VC 40508.**

**The repeal of VC 40509 and 40509.5 may not have retroactive effect.**

The general rule is that when, after a crime is committed, the punishment for that crime is reduced, the reduced punishment applies, unless there is a savings clause. (See *In re Estrada* (1965) 63 Cal.2d. 740)

An older case held, however, that “The suspension or revocation of a license (by the Department of Motor Vehicles) is not penal. (*Talley v. Municipal Court* (1978) 87 Cal.App.3d 109, 113, holding that entry into a program that would avoid DMV suspension of CDL for DUIs, was not retroactive (internal quotation marks, and citations, omitted).)

Moreover, the amendment of VC 13365 and 13365.2, effective on January 1, 2023, to include notices received under *former* VC 40509 or 40509.5, may be considered as having the effect of a savings clause.



**VICTIM’S RIGHTS**

***Probation Must, On Request, Advise A Domestic Violence or Stalking V When Def Is Released on Probation.***

[AB 547 \(Stats. 2022, Ch. 941\)](#) [Adds PC 679.06](#)

***From New PC 679.06.***

***(a) The ... probation department shall notify a [V] of domestic violence or abuse ... or a victim of stalking ... of [Def’s] current community of residence or proposed community of residence upon release, when [Def] ... is placed on or being released on probation ... under [probation] supervision....***



*(c) Law enforcement shall not be required to provide any information that would jeopardize or ... interfere with the ongoing investigation....*



**EARLY NOTICES**

**Judicial Council must issue, by 7/1/23, a matrix of offense-based classifications for all Juvenile Courts making commitments to secure youth treatment facilities**

This was done by SB 92, in 2021 adding WI 875, and amended by [AB 200, \(Stats. 2022, Ch. 58\)](#). The Judicial Council issued, in Summer, 2022, a draft proposed rule 5.806; see, <https://www.courts.ca.gov/documents/famjuv--08152022--materials.pdf> .



**Drivers and Pedestrians Must be Told Reasons for the Stop Before Questioning for Criminal or Traffic Investigations**

[AB 2773 \(Stats. 2022, Ch. 805\)](#) “beginning January 1, 2024.”

Adds VC 2806.5 and Amends GC 1656.3 and 12525.5

**From the Legislative Counsel’s Digest**

This bill ..., beginning on January 1, 2024, require[s] a peace officer making a traffic or pedestrian stop, before ... questioning related to a criminal investigation or traffic violation, to state the reason for the stop, unless the officer reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat.

The bill ..., beginning on January 1, 2024, require[s] the officer to document the reason for the stop on any citation or police report resulting from the stop.

¶...¶

The bill ..., beginning on January 1, 2024, require[s] [DMV] to include information regarding the duty of a peace officer to state the reason for the stop in the ["California Driver's Handbook"] ... when the handbook is otherwise revised or reprinted.

**From Added VC 2806.5 (operative January 1, 2024):**

***(a) A peace officer making a traffic or pedestrian stop, before engaging in questioning related to a criminal investigation or traffic violation, shall state the reason for the stop. The officer shall document the reason for the stop on any citation or police report resulting from the stop.***

***(b) Subd[.] (a) does not apply when the officer ... believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including, but not limited to, cases of terrorism or kidnaping.***

Violation of this new law might not result in suppression of evidence. Custodial arrest in violation of a state law is not necessarily a violation of the Fourth Amendment. (*Atwater v. City of Lago Vista* (2001) 532 U.S. 318.)

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***Race-Blind Charging Procedures to be Developed by DOJ Starting Jan. 1, 2024, and Prosecution Agencies Starting Jan. 1, 2025***

[AB 2778 \(Stats. 2022, Ch. 806\)](#)

Adds PC 741

**From the Legislative Counsel's Digest** [Edited.]

... [B]eginning on January 1, 2024, [DOJ must] develop and publish “Race-Blind Charging” guidelines whereby all prosecuting agencies, as specified, implement a process to review a case for charging based on information, from which all means of identifying the race of the suspect, victim, or witness have been removed or redacted.

Following [DOJ’s] guidelines, ... prosecution agencies [must] independently develop and execute a process to review and to redact information based on general criteria, including, beginning January 1, 2025, how cases are to be redacted, that the initial charging evaluation is to determine whether the case should be charged or not charged, and that a prosecutor without knowledge of specified facts is required to perform the initial charging evaluation based on redacted information.

The bill would require a second, complete review of the case using unre-dacted reports and available evidence to consider the applicable individual charges and enhancements to charge in a criminal complaint or allow the case to be submitted to a jury.

If the decision to charge or not ... after a second review is different from the charging determination after the initial ... evaluation, the bill ... require[s] documentation of [that] ... [and] an explanation ... [in] the case record and ... require[s] these documents to be disclosed, upon request, after sentencing or dismissal ..., unless [they] are privileged or work product.

... [A] decision not to put a case through a race-blind charging evaluation [must] be documented.

... [A] prosecuting agency [can] remove or exclude certain classes of crimes or factual circumstances from a race-blind initial charging evaluation, including homicides, hate crimes, and cases involving public integrity. [Ten class of crimes and factual circumstances are listed in PC 241. GB]



**Juvenile Interrogation by Law Enforcement Limited, July 1, 2024**

[AB 2644 \(Stats. 2022, Ch. 289\)](#)

Adds WI 625.7



Note the discrepancy in the operative date. The Legislative Counsel's Digest says "January 1, 2024, but added WI 624.7, subd. (e) says July 1, 2024.

### **From the Legislative Counsel's Digest**

Existing law authorizes a peace officer to take a minor into temporary custody when that officer has reasonable cause to believe that the minor has committed a crime or violated an order of the juvenile court.... [E]xisting law requires the peace officer to advise [M of *Miranda* rights].

Existing law requires that [an M] consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation and before waiving any of the above-specified rights.

This bill ..., [starting] Jan[.], 2024, prohibit[s] [peace] officers from employing threats, physical harm, deception, or psychologically manipulative interrogation tactics, as specified, during a custodial interrogation of [an M].

### **From Added WI 625.7.**

*(a) During a custodial interrogation of a person 17 years of age or younger [i.e., M]..., [an] officer shall not employ threats, physical harm, deception, or psychologically manipulative interrogation tactics.*

*(b) [Definitions]:*

*(1) "Deception," includes, but is not limited to, the knowing communication of false facts about evidence, misrepresenting the accuracy of the facts, or false statements regarding leniency.*

*(2) "Psychologically manipulative interrogation tactics" include, but are not limited to the following:*

*(A) Maximization and minimization and other interrogation practices that rely on a presumption of guilt or deceit.*

*(i) ... [M]aximization includes techniques to scare or intimidate [M] by repetitively asserting [that M] is guilty despite [M's] denials, or exaggerating the ... charges or the strength of the evidence, including suggesting the existence of evidence that does not exist.*

*(ii) ... [M]inimization involves minimizing the moral seriousness of the offense, a tactic that falsely communicates that the conduct is justified, excusable, or accidental.*

*(B) Making direct or indirect promises of leniency, such as indicating [M] will be released if [M] cooperates.*

*(C) Employing the “false” or “forced” choice strategy, where the person is encouraged to select one of two options, both incriminatory, but one is characterized as morally or legally justified or excusable.*

*(c) Subd[.] (a) does not apply to interrogations of [M] if ...:*

*(1) The ... officer who questioned [M] reasonably believed the information ... was necessary to protect life or property from an imminent threat. [And]*

*(2) The questions ... were limited to those ... that were reasonably necessary to obtain information related to the imminent threat.*

*(d) This ... does not prevent [use of] a lie detector test [that] is voluntary and ... not obtained [by] threats, physical harm, deception, or psychologically manipulative ... tactics ..., and the officer does not suggest that the ... results are admissible in court or misrepresent the ... results to [M].*

*(e) This section shall become operative on July 1, 2024.*



**BRIEFLY NOTED**

Peace officers cannot carry electroshock devices (e.g. Tasers) on the same side as their primary firearms. [AB 1406](#) (adds PC 13660)

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The resentencing required by former PC 1171, now PC 1172.7, for people doing time for the repealed 3-year drug-prior enhancement once required by HS 11370.2; and the resentencing required by PC 1171.1, now PC 1172.75, for the former 1-year prison-prior enhancement once in PC 667.5, are both supposed to be done by December 31, 2023. [SB 483 \(Stats. 2021, Ch. 728\)](#).

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[SB 187](#), on and after July 1, 2022, permits qualified M’s to be placed by the Juvenile Court in Community Treatment Facilities. (See, e.g., WI 636, subd. (g); WI 727.12, as well as HS 1502 and WI 4096, and many other Code sections. See also, new Rules of Court, above, 8.417.)

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The court cannot order diversion under PC 1001.95 – 1001.97 (“Court Initiated Misdemeanor Diversion”) for Domestic Violence as defined in FC 6211 (which covers practically all DV offenses), or for violation of a protective order listed in PC 13700, subd. (b). [AB 200](#), amending PC 1001.95.

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Prop. 47 (PC 1170.18), passed in 2014, reduced the penalties for several theft-related, and drug, crimes. People had until November 4, 2022, to file a petition for relief. A bill that would have extended that date (SB 1178) failed.

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VC 5204 requires a vehicle’s license plate have a current registration tab. [SB 1359 \(Stats. 2022, Ch. 306\)](#) amends that, and VC 40225, by prohibiting giving a citation for no tabs unless the officer verifies with DMV that the car is not properly registered.



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AB 1720 (Stats. 2022, Ch. 581) This bill authorizes the Dept. of Soc. Services to grant a simplified, faster, criminal record exemption to an applicant for a license or special permit to operate or manage specified care facilities and for specified individuals connected with these facilities, if certain criteria are met.

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AB 1766 (Stats. 2022, Ch. 482) requires DMV, commencing no later than January 1, 2027, to issue restricted I.D. cards to eligible applicants who are unable to verify that their presence in the U.S. is authorized under federal law, but who meet certain other criteria including proof of identity and California residency. The ID card “is not acceptable for official federal purposes,” which seems to mean it would not be a federal “Real ID.” This can extend to persons being released from CDCR.

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AB 1576 (Stats 2022, Ch. 200) says, the superior court must provide any court user access to a lactation room in any courthouse in which a lactation room is provided to court employees [as specified, with exceptions]. This must be within the court facility and accessible to the public as stated. The room can’t be a bathroom, must be shielded from view, and free from intrusion. Operative July 1, 2024.

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AB 2275 (Stats 2022, Ch. 960), amending several WI sections, requires that the LPS (mental health) WI “5150” 72-hour hold begins when the person is first detained. When a person has not been certified for 14-day intensive treatment and remains detained on successive 72-hour holds, a certification review hearing must be held within 7 days of the initial hold, and the person must be told of certain specified rights. Related changes are also made.

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